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ABSTRACT

This report investigates whether strategies employed by the United Kingdom's Commission for Racial Equality (CRE) have been effective in furthering racial equality. It examines the way that CRE strategies have responded to a range of changing conditions, and it looks at the value of this experience in shaping the CRE's future strategies. Section 1, "Racial Equality: A Changing Context," discusses immigration and race relations, Britain's ethnic minority population, and discrimination, disadvantage, and diversity. Section 2, "Combating Discrimination," highlights: 1977-84 (testing the law), 1985-93 (promoting equal opportunities), and 1993-00 (campaigning for equality). Section 3, "Good Race Relations: Conditions for Equality," discusses challenging racial harassment and majority prejudice, supporting representation and inclusion, and scrutinizing state activity. Section 4, "A New Regulatory Framework," examines pressures on government, the Race Relations (Amendment) Act 2000, implementation of the Act, and a new regulatory framework. Section 5, "Conclusions and Evaluation," notes that the CRE was key in developing awareness of racial discrimination and the need for continuing racial equality work, developing an awareness of a law enforcement approach to racial equality, and developing multiple strategies that go beyond law enforcement. (Contains 33 references.) (SM)

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THEN AND NOW: CHANGE FOR THE BETTER?

BY JULIAN CLARKE AND STUART SPEEDEN

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SUMMARY

The aims of the report, commissioned by the Commission for Racial Equality (CRE), are:

- to investigate whether the strategies employed by the CRE have been effective in furthering racial equality
- to look at the way the CRE's strategies have responded to a range of changing conditions
- to examine the value of this experience in shaping the future strategies of the CRE.

Five sets of strategic tools have been developed by the CRE to fulfil its role:

- powers of law enforcement and legal support
- support for racial equality councils (RECs) and voluntary bodies
- codes of practice and standards
- promotion, research, and publication
- campaigning and publicity.

These have been employed in different ways over time and the report distinguishes three periods of activity in which the strategic emphasis has varied:

- 1977 – 1984: enforcing the law
- 1985 – 1992: promoting equal opportunities
- 1993 – 2000: campaigning for (e)quality.

The four main sections of the report are:

1. Racial equality: a changing context

Britain has changed since 1976. The country has passed through a period of major economic and social transformation, which has affected the development of racial equality policy and practice. Racial discrimination has persisted and, in some cases, emerged in key areas of social and economic life. British society has failed to deliver equality

of opportunity and social inclusion to people from ethnic minorities. These failures are illustrated by incidents such as the failure of the Metropolitan Police to investigate properly the murder of Stephen Lawrence, thus highlighting the continuing problem of 'institutional racism'.

It is important to recognise these changes if we are to make sense of the CRE's contribution to racial equality. In this first section we briefly trace relevant strands of thought, politics, policy, and institutional development. In particular, we focus on:

- the operating environment, defined principally by the politics of immigration control legislation, and attempts to redress the balance with race relations legislation
- development and change in the minority population
- changing views of the problems of race, racial discrimination, and race relations.

2. Combating discrimination

This section pursues one central theme: the work of the CRE in attempting to combat racial discrimination. Jobs, housing and education have been highlighted in the report because of the importance of these areas to the development of the CRE's work.

The operational strategies that are examined show clearly the means by which the CRE has attempted to combat discrimination. They have been designed to act on different aspects of discrimination and have been given different priority as the debate on racism and discrimination has changed.

The differential use of formal investigations, industrial tribunal support, and other kinds of action indicate shifts of strategy over the three periods. These changes are explicitly acknowledged in CRE annual reports and in the resources devoted to investigations and other action. When a single-minded law enforcement approach ran into problems in the early 1980s, the CRE began to develop parallel kinds of action, such as the codes of practice and the standards that complemented formal investigations.

3. Good race relations: conditions for equality

The shift of emphasis from 'integration' to 'diversity' has been a central feature of the changing context. This shift affects the definition of race relations. For the purposes of evaluation, we have interpreted the phrase, 'good race relations', as: 'a decline in all forms of racial harassment and the growth of positive attitudes and relationships between different ethnic groups; a decline in racial prejudice in the

white population and increased feelings of security and inclusion within minority groups.'

We have examined the way in which the CRE has responded to challenges in the following areas:

- working to combat racial attacks and harassment and reduce racial prejudice among the white majority
- supporting minority groups in their effort to gain better representation for themselves both locally and nationally, and working to improve social inclusion and to increase confidence and security within minority communities
- efforts to scrutinise and challenge the negative effects of the workings of state organisations, particularly through promotional work and campaigning.

A uniform law enforcement approach to these problems was not possible. The Race Relations Act 1976 permitted funding and campaigning, but gave patchy direct legal power in some areas, and none at all in others. The CRE has therefore pursued a varied and sometimes uneven set of strategies.

4. A new regulatory framework

With the introduction of the Race Relations (Amendment) Act 2000 (RR(A)A), and in the climate created by the Stephen Lawrence inquiry, a new regulatory framework for policy and action is about to be put into place. The new Act makes important changes to the CRE's remit for the first time in twenty-five years, and provides a clear statutory framework for positive racial equality schemes in the public sector, which have hitherto been either vague or explicitly voluntary.

The new approach is consistent with the CRE's attempts during the 1990s to place greater emphasis on quality management and self-assessment as mechanisms for delivering racial equality. The enforcement regime established under the RRAA reinforces this approach, which sees racial equality mainstreamed within 'good management.'

In developing these new measures the CRE is likely to encounter tensions within its enforcement role; this is because the new powers under the RR(A)A which emphasise law enforcement as a positive corrective within a regulatory system have not replaced the previous 'negative' enforcement role based on the 'punishment of offenders'. Instead, both sets of powers are available. The CRE will have to consider seriously how it will strategically use these powers. The temptation to move into a new and vigorous period of action based on

complaint and the punishment of offenders may serve to undermine the regulatory compliance and culture change implied by the new positive duty.

5. Conclusions

The CRE has operated in two broad areas of policy and practice, using five sets of tools. Here, we focus on the way in which the law enforcement approach, in particular, has been supplemented by other strategies, and also on the degree to which the CRE has managed to generate a comprehensive and integrated racial equality strategy. We have reached four main conclusions:

- The CRE has been key to developing a national understanding of the persistence of racial discrimination and the continuing need for racial equality work. This is a major achievement, because, despite the apparent commitment of government and other public bodies to the idea of racial equality, the CRE has not operated in a supportive environment.
- The CRE has succeeded in developing a clear understanding through its practice and through the three law reviews it has conducted since its establishment in 1977 of the importance and the limitations of a law enforcement approach to racial equality.
- The CRE has developed a multi-strategy approach to racial equality. The most important aspect of this has been the attempt to use Codes of Practice and Standards, advice and promotion on equal opportunities policy and monitoring to persuade organisations to take ownership of the process of producing racial equality.
- The CRE has pursued a number of strategic goals over its lifetime, but has fallen short in developing a comprehensive and integrated set of strategies that build on this experience. This is partly the result of external forces; but, it is also due to an insufficiently clear view of the relationship between its various strategic approaches. In particular, we point to the relationship between attempts to enforce the law through investigations and tribunal support and promoting 'institutional ownership' of the development and implementation of racial equality practice.

INTRODUCTION

The Commission for Racial Equality (CRE) was established in June 1977 with duties and powers laid down in the Race Relations Act of 1976. The duties set out in the Act gave the CRE a broad responsibility for ' the elimination of racial discrimination' and 'the promotion of equal opportunity, and good relations between persons of different racial groups generally'. The CRE was also given the duty of reviewing the working of the Race Relations Act and drawing up proposals for amending it.

The purpose of this report is to provide an evaluation of the CRE's work over the last 24 years. We ask: 'has the CRE made a significant contribution in combating discrimination and in promoting equal opportunities?' To answer this question, it is not sufficient to establish whether there have been significant changes in patterns of discrimination and equal opportunity; it would be difficult to attribute these changes directly to a body such as the CRE. A wide range of forces within society has shaped the direction of race relations in Britain, but the CRE has had a key role in responding to these changes. The main aim of this report is to evaluate the CRE's policy and strategy against the changing context.

The Race Relations Act 1976 established a broad framework, which placed legal measures at the centre of the CRE's anti-discrimination role, but it also outlined less well-specified duties and possibilities. Over the period since its formation, the CRE has developed a number of strategic approaches emphasising different aspects of its role in combating discrimination. Changing conditions and changing perceptions of race relations have shaped these strategies. However, the direct powers provided under the law have provided the terms of reference through which the organisation has operated.

The Race Relations Act 1976 established the CRE as a statutory agency, responsible to the Home Secretary but not formally part of the Home Office. Its duties are outlined schematically in section 43 (1) of the Act:

(a) to work towards the elimination of discrimination

(b) to promote equality of opportunity, and good relations between persons of different racial groups generally

(c) to keep under review the working of the Act.

Unlike its predecessor, the Race Relations Board, the CRE has direct access to the courts, and its own quasi-judicial powers. It can attack racial discrimination directly through formal investigations (RRA 1976 s.49) and by issuing non-discrimination notices (a legal instrument similar to an injunction); it can support individuals in their direct access to the law in industrial tribunals and county courts; and it can also issue codes of practice, subject to parliamentary approval, although at the moment these have no specific statutory status.

Formal investigations have had a dual function from their inception: they have served both as evidence and as research. In cases of alleged discrimination, they record the process of investigating potentially unlawful practice, including the gathering and evaluation of evidence and the construction of a case. Investigations also produce reports that are snapshot research documents, showing the state of discrimination and disadvantage in an institution or particular type of employment or other area of social life. The tension between the enforcement/reactive and strategic/research aspects of CRE investigations will become evident later in the report.

The idea of the formal investigation grew out of the experience of the Race Relations Board (RRB), which had been restricted under the RRA 1968 to investigating formally stated complaints. The RRB wanted to be able to carry out investigations in cases where no formal complaint had been made. Such a power would have given the RRB the ability to investigate areas where effective segregation existed and where the segregation was maintained by practices that were indirectly discriminatory, such as word of mouth recruitment. The exact powers of investigation available to the CRE in circumstances where discrimination was suspected but where there were no allegations or other direct evidence became a subject of legal dispute in the early 1980s (Munroe 1985:189-191).

The intention declared in the White Paper both to attack specifically unlawful discrimination and to monitor wider aspects of practice were reflected in two categories of investigation: 'named person' (this included corporate 'persons' like large companies), and 'general'. 'Named person' investigations because they involved allegations of specifically unlawful practice and were hedged with legal restrictions, which, as already indicated, became the focus of judicial challenge in the early 1980s; 'general investigations' because they involved no allegation of unlawful practice and no powers to compel the production of information, were not similarly restricted.

The basis of all CRE attempts to combat discrimination has been the receipt of individual complaints. All named person formal investigations, for example, start with a complaint. Complaints are assessed

for advice and support. Those receiving support do so through negotiations with employers and service providers and, ultimately, through employment tribunals and county court cases.

The code of practice for employment, which came into force in 1984, contained, among many other provisions, detailed recommendations on achieving equality of opportunity. These had no direct legal force, but failure to observe them, and the provisions of subsequently produced codes, have been taken into account in proceedings against employers at tribunals or respondents in county court cases (RRA 1976 s.47 (10)). A non-discrimination notice could require an organisation to change ' ...any of [its] practices or other arrangements,' but enforcement has proved costly and complicated (see Moore 1994 for a detailed case study).

The White Paper foresaw the CRE, 'conducting wide ranging inquiries into matters not covered by [the Act] which cause or contribute to discrimination, prejudice and disadvantage' (HMSO 1975, Cmnd 6234, para 120). As the CRE had replaced both the Race Relations Board and the Community Relations Commission, it was permitted to support organisations 'concerned with the promotion of equality of opportunity, and good relations, between persons of different racial groups' (RRA 1976 s.44 (1)). The research and promotional activity carried out by the CRE received almost no attention in the White Paper and no specific promotional duties are included in the RRA 1976.

Both the White Paper and the 1976 Act itself concentrated on combating racial discrimination through formal legal procedures. Discrimination is seen as clearly defined, and as a 'law enforcement problem'. Although this was recognised as a complicated task, it was viewed by legislators as fairly straightforward. Little thought was given to complementary promotional strategies, and, even less, to the role that the CRE would play in a comprehensive government strategy, if such a thing ever emerged.

It is important to note that the duty to try to eliminate discrimination stands separately within the Act. The promotion of equality of opportunity is linked to promoting 'good race relations ... generally.' Herein lies one of the central dilemmas/problems that the CRE has faced. The legislators did not think through the relationship between law enforcement and equal opportunity. The problem was aggravated by the fact that a government coordinated programme to eliminate racial disadvantage never materialised.

This separation of functions has been important to the way the CRE's strategies have developed: strategies for the elimination of discrimination have evolved, largely, independently of the strategies for promoting good race relations. It is only recently that these strategies

have begun to converge. The report examines the development of these strands of activity against the changing context of race relations in Britain.

The report is set out in five main sections: section 1 looks at the changing context of race relations; section 2 examines strategies for combating discrimination; section 3 deals with the strategies which have been developed to promote good race relations; section 4 examines the development of a new regulatory framework based on the Race Relations (Amendment) Act 2000; and section 5 draws conclusions and a general evaluation, and offers some recommendations for future developments within the CRE.

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1. RACIAL EQUALITY: A CHANGING CONTEXT

Evaluating the CRE's work to combat racial discrimination requires a clear understanding of the context in which the organisation was established in 1977. In this section we focus on three aspects of this context: the development of racism around skin colour and immigration control; changes in the ethnic minority population and in the experiences of people from ethnic minorities; and the changing nature of racial inequality and the way in which it has been studied.

- From 1945, racism and racial discrimination were shaped by the politics of immigration control that grew up around the migration and settlement in Britain of people from New Commonwealth countries in South Asia, the Caribbean and East Africa. Immigration control measures in the 1960s were unequivocally directed at 'black' migration. Skin colour became the predominant basis for discrimination by government and within British society more generally. The control of immigration has continued to be a major political issue, regularly sparking political controversy and new legislation (Clarke 1992). Labour governments in the 1960s and 1970s both renewed and reinforced immigration restriction and legislated against discrimination. The CRE was established following the Race Relations Act of 1976.

- Against this background, Britain's ethnic minority immigrants attempted to settle and build new lives for themselves, primarily in London and other major metropolitan areas. Since the 1960s, varied communities have been established. What was in the early 1960s a predominantly young, male population is now approaching a profile that is similar to that of other British people. Britain no longer has a large immigrant population, but, rather, a settled, ethnic minority population, most of whom were born and educated here, and live mainly in Britain's large cities.

- The inequalities experienced by the ethnic minority population were examined in four major studies between 1965 and 1995. Although looking broadly at the same range of issues, these studies reflected on the changing character of the ethnic minority population and the changing nature of discrimination and racial inequality.

IMMIGRATION AND RACE RELATIONS

The migration of British subjects from territories that were still mostly colonies was convenient for government and employers alike during the post-war reconstruction period. Many had fought in the Second World War, were not subject to existing immigration control, spoke English, and were willing to fill gaps in the labour market. Conservative governments in the 1950s did nothing to regulate migration and, in some cases, actively encouraged it to meet economic needs.

Migration took place against a background of prejudice against 'black' settlement in Britain. As far back as the sixteenth century, black settlers had been perceived as a social problem. This perception continued into the next two centuries and was reinforced by black enslavement in the Caribbean and black settlement in England . It reappeared in the twentieth century, following a number of racist riots in British port cities both before and after the First World War. Saggar argues that the period following the Great War:

> ... was one in which political discourse about race was mainly concerned with the alleged social problems associated with black settlers. The emphasis was placed upon social decay, criminality and economic decline (Saggar 1992:33).

Little thought was given by government, at the time, to how migrants could be settled within Britain. Establishment thinking on immigration can be seen in the 1949 report of the Royal Commission on Population:

> Immigration on a large scale could only be welcomed into a fully established society like ours without reserve if the immigrants were of good human stock and were not prevented by race or religion from intermarrying into the host population and becoming merged with it (Royal Commission 1949:124).

The Royal Commission saw the 'right' physical characteristics and assimilation to the host culture as preconditions for large-scale immigration. However, the pressure for economic reconstruction became the major force shaping migration and the implications of large scale immigration seem to have been given little serious consideration by government during this period

Post-war migrants from the New Commonwealth were defined in public policy terms as racially different. This view of 'black' settlement conditioned the 'race relations' climate of subsequent decades. 'Racial' in the British context referred to a complex of physical (colour) and other differences, which included culture (though this was reduced very often to personal habits, unfamiliar clothing and food, and a propensity to cause social disruption). Migration from the New Commonwealth was seen quite specifically as creating a problem

of relations between different racial groups.

In the 1950s, the term 'racism' referred to a view that people from ethnic minorities were essentially different, and inferior. Racists were prejudiced people who wanted no migration and wanted racial separation. But people who welcomed or were tolerant of non-white migration and felt that ethnic minority migrants should be actively helped to settle also saw their immigration as creating a racial problem. Street violence in 1958 in London and Nottingham focused and popularised existing anti-immigration sentiment.

Government response in the 1962 Commonwealth Immigrants Act turned Britain into a country that excluded its own citizens. It consolidated and generalised the view that non-white migrants were a problem for Britain. Within three years the Labour Party, which had opposed the 1962 legislation, reinforced it, and did so again in 1968. Immigration control has continued to be major political issue. It has resurfaced in the 1990s as the asylum seekers 'crisis.'

The 1962 Act did not halt the immigration at which it was directed. Indeed, there was record migration just before the Act came into effect and there was a substantial inflow between 1963 and 1968. Britain had in 1965 a small but significant population that was defined, not formally and legally, but in political and popular terms, as racially different and as a political and social problem.

Various strands of thought and action came together to push for legislation to deal with the problem of black settlement. Racialists wanted black immigration halted; even to have black settlers removed. Liberal opinion wanted welfare measures and initiatives to integrate the new population and prevent discrimination. The 1964 Labour government tried to respond both to political pressure for control and to liberal concern for the position of black immigrants. We have seen that already that it extended the restriction on Commonwealth immigrants. It legislated also against racial discrimination.

The 1965 Race Relations Act combined two kinds of provision. Neither was effective. Incitement to racial hatred was criminalised but was almost impossible to prove. The anti-segregation, 'public resort' provisions, were limited and weak. The Race Relations Board was set up as a statutory agency in 1966 to oversee the legislation; removing the Home Office from immediate dealings with Act. The RRB was mainly concerned with the settlement of grievances through conciliation. The only direct legal powers, however, were retained by the Attorney General. As Bindman says:

> In the absence of any realistic sanction, no effective redress was provided to any victim while the 1965 Act was in force (Bindman 1999:41)

Probably the major contribution of the RRB in its first years was to push for a new and broader Race Relations Act (Lester 1999:29). The 1968 Act retained broadly the same legal and administrative framework of the 1965 Act although the RRB was given the power to act in the courts directly. Most important, its provisions were extended to include discrimination in the distribution of social goods: primarily employment and housing.

Between 1962 and 1968, three assumptions were embedded in British politics and social attitudes:

- non-white migrants were a problem for Britain and its white population and immigration should be halted
- non-white settlers already here should integrate as soon as possible
- efforts (moderate efforts) should be made to combat racial discrimination.

The 1976 Act represented recognition that racial prejudice and overt personal discrimination constituted only one part of the problem of racial discrimination and that there was a broader problem of racial disadvantage that could not be dealt with by existing anti-discrimination legislation. The 1975 White Paper argued for:

> A fuller strategy to deal with racial disadvantage ... than has been attempted so far (HMSO 1975, para 13).

The new Act legislated broadly against racial discrimination in employment and access to goods and services. It outlawed pressure or instructions to discriminate and the victimisation of complainants. It gave access to the law directly to complainants for the first time through industrial tribunals and county courts. A new offence of indirect discrimination was created to deal with discriminatory outcomes. The Act also created the Commission for Racial Equality; a completely new body with wide ranging powers to enforce the law and engage in other activity to promote racial equality.

The responsibilities of the CRE were defined following ten years of race relations law and work by the RRB. This work had led to a view that the problem of racial discrimination was much more complex and intractable than was believed in 1965. Nonetheless, the 1974 Labour government and its policy advisors saw extending the law as the main way of dealing with all kinds of discrimination. Although defined primarily as a law enforcement institution, the CRE in its first full annual report made it quite clear that law enforcement could only be effective as part of comprehensive, government led, multi-agency attack on discrimination (CRE *Annual Report* 1978:3).

BRITAIN'S ETHNIC MINORITY POPULATION

The legislative framework made it clear that the problems of equal opportunity were not only associated with direct acts of discrimination. There were also dimensions of discrimination that were rooted in cultural and religious assumptions, settlement patterns and points of entry into the British economy.

These differences have been reflected in the changing language of race relations in which the term minority ethnic group has been increasingly used to encapsulate both similarities in and the increasing diversity of experience of migrants and their children and grandchildren. The words minority ethnic group also shifts emphasis towards identities produced by group members themselves and away from a focus on skin colour. The term further suggests long term settlement; specific needs and interests and an organised or institutional presence. Although being black ('non-white') remained the primary trigger for discrimination, different minority ethnic groups showed marked differences in their experience.

Britain's minority ethnic population grew steadily from about 1.3 million or 2.5% of the population in 1971 (Smith 1977:21) to just over 3 million or 5.5% of the population in 1991. Table 1 shows that Britain has become ethnically more diverse since 1971 with Chinese and African people now accounting for 12% of the minority population. The 'other' category is larger and contains more subgroups.

Table 1. Britain's ethnic minority population

	1971	1981	1991
Sources	*(Smith 1977)*	*(Jones1993)*	*(Census 1991)*
	1.3m	2.1m	3m
	%	%	%
Caribbean	43	25	16
Indian	26	26	28
African Asian	15	9	
Pakistani	16	14	16
Bangladeshi	(1.3)	2.5	5
African	N.R	4	7
Chinese	N.R.	4	5
Other	N.R.	16	22

The ethnic minority population is no longer immigrant: a fact that is politically, legally, educationally, and culturally important. Smith (1977:33) estimates that in 1971 less than 2% of the adult ethnic minority population had been born in Britain. The same estimate, however, indicates that 95% of under-fives, 83% of 5-9 year olds and

over 50% of 10-14 year-olds had been born here. The 1994 Policy Studies Institute study found that over 90% of all under 15 years-olds, and over 30% of those in the 16-59 age group had been born in the UK. The pattern varies for different ethnic minority groups, depending on the period of immigration and settlement, but the trend is similar (Modood and Berthoud 1997).

The ethnic minority populations tend to be younger than the majority population, but this pattern began to change between 1982 and 1991, with a decrease in under 16s and an increase in over 65s. In 1971, all ethnic minority groups, except West Indians, had male majorities. This was most pronounced among Pakistanis (185 men per 100 women). By 1991 these ratios had declined; the Pakistani ratio, for example, had dipped to 108/100. In terms of gender and age distributions, the settled minority population is becoming more like the ethnic majority.

Where it still differs in a marked way is in its location. The ethnic minority populations are unevenly distributed across the country and the majority are located in the large English towns and cities. The varied concentration of groups in different areas or cities further emphasises differences in experience.

DISCRIMINATION, DISADVANTAGE AND DIVERSITY

The four major studies of the position of ethnic minorities conducted since 1965 by Policy and Economic Planning and subsequently the Policy Studies Institute provide a more precise measure of these changes. Although these studies tried to answer similar questions, there have been basic differences in the guiding assumptions. These differences reflect changing perspectives on racial discrimination and have contributed to the way public policy has addressed the needs of Britain's ethnic minority population. The studies are important in that they provide a limited measure of discrimination at different points over the past 24 years. They are also landmarks in the definitions of discrimination and disadvantage which have both changed over time.

The second of these studies was started in 1974 and was published as *Racial Disadvantage in Britain* (in 1977, the same year that the CRE came into existence). It argues that it:

> ... sees discrimination as just one of a number of interlocking sources of disadvantage (Smith 1977:14).

Discrimination is defined in law and is subject to legal remedy in number of ways. Disadvantage is a broader concept and the term 'sources of disadvantage' points to the presence of the range of cultural and institutional factors that create it. This issue was recognised by

the 1975 White Paper (HMSO 1975, para 11) which, as we have seen, argued for a broad strategy to combat racial discrimination, of which legal measures formed only a part.

Smith recognised a complex interrelationship between discrimination and disadvantage. This is illustrated in the case of language fluency and educational qualifications. In the early 1970s, many migrants, particularly from south Asia, were very recent settlers. Many had poor English language skills and non-British qualifications. These factors contributed to problems in jobs markets. Disentangling this from discrimination, particularly indirect discrimination, is not straightforward. Jenkins' key study on recruitment (1986) found that criteria of 'suitability' were imposed on ethnic minority candidates and not on white applicants. When there were labour shortages these criteria were less likely to be applied. Therefore, although there was a tendency to discriminate, it varied with the state of the labour market.

The same kind of discriminatory practice would be more difficult to conceal now because similar job applicants would overwhelmingly have been born in the UK, educated here and be native English speakers. A criterion of suitability applied now would clearly be discriminatory. Current marked discrepancies between minority and majority groups in language skills and qualifications would also be evidence of disadvantage generated within the British educational system.

In 1974, Smith used three methods to find out about discrimination: recruitment and housing situation tests; assessment of the experiences and beliefs of ethnic minority interviewees about discrimination; and qualitative studies in industrial plants. His work revealed how the intersection of patterns of migrant settlement, law, a range of employment practices, and straightforward discrimination gave rise to a situation in which it was difficult to describe all the different sets of circumstances that excluded ethnic minority job and house seekers. It made it difficult also to assign relative importance to different sets of conditions, making the measurement of illegal discrimination even more problematic.

The range of inequalities could be attributed to two clusters of factors:

- *General conditions for disadvantage* (these may or may not be related to specific prior discrimination): historical ethnic concentration in occupations that paid low wages and provided poor employment conditions; ethnic concentration in occupations subject to both short and long term fluctuation in business cycles and therefore labour demand; labour market disadvantage caused by discrimination or disadvantage in education and training leading to poor qualifications; (perceived) poor English language skills leading to

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exclusion from a range of white collar and supervisory jobs; cultural differences and prohibitions.

- *Specifically discriminatory practices*: persistent illegal direct discrimination in recruitment, training and promotion; selective illegal discrimination during periods of cyclical economic down turn.

Colin Brown's 1982 study resulted in book called *Black and White Britain* (1984). The terms 'racial minority' and 'ethnic group' are used interchangeably, although much of the analysis is carried out using categories based on area of origin, such as West Indian or Bangladeshi. Brown also uses the term racial inequality rather than the more neutral term racial disadvantage. Both the title of the book and (particularly) his concluding comments suggest a society divided on the basis of skin colour; one that was *de facto* segregated (Brown 1984:293-294).

A key feature of Brown's book is the way in which it expands the view of discrimination. There are sections on healthcare and racial attacks. The appearance of these issues on policy agendas in the early 1980s are an important example of how conceptions of discrimination have changed and developed; how views of what was important in the experience of minority groups have broadened. Overall, the evidence still pointed to ethnic minority disadvantage in access to employment, housing, and education. There was also evidence of differences between ethnic groups, although West Indians, starting from a lower point, appeared to have made more progress into non-manual occupations since 1974 than Asians (Brown 1984:223-224).

In 1985, Brown and Gay conducted a national test study for employment recruitment. Its findings were in line with the national tests conducted in 1974 by Smith and his colleagues and the local tests done in Nottingham by Hubbuck and Carter. The principal finding was that discrimination had not decreased in any way since 1974. Although Brown and Gay did not pursue the same qualitative study of recruitment discrimination as Smith, the tests selected jobs that made this outcome directly comparable with the Smith study. Despite the problems of measuring discrimination, they confidently say:

> ... even a conservative estimate would put the figure at tens of thousands of acts of racial discrimination in job recruitment every year (Brown and Gay 1985:31)

Direct experience of discrimination in employment appeared to have increased for West Indians since 1974, but declined slightly for the Asian groups. Brown recorded experience of discrimination in job promotion for the first time. Again, this was highest for West Indians (11% of respondents). Belief in racial discrimination in employment

was much higher than in 1974 and, in fact, was much higher among white respondents (70%) than Asian (40%) (Brown 1984:219).

The Policy Studies Institute (PSI) study of 1994, *Ethnic Minorities in Britain* (Modood and Berthoud 1997), subtitled *Diversity and Disadvantage*, demonstrates the continuation of widespread disadvantage among ethnic minority groups. The report, however, also focused on different outcomes for various minority groups. The study shows that, in terms of job level, housing quality, and education, African Asians and Chinese have reached parity with the white population and could not be called disadvantaged groups. Other groups, for example Bangladeshis, whose average male earnings were less than 60% of the white average, were still disadvantaged across all indicators.

The study continues the early work of the 1982 study, with substantial sections on racial violence and harassment, health, and identity. It presents a much more detailed and complex view of the position of minorities than the 1974 and 1982 studies. It broadened the view racial disadvantage and discrimination and recognised that the ethnic minority population are affected by a wider range of problems than just employment and housing.

There was no attempt in the PSI study to repeat the large scale recruitment tests of 1974 and 1985. Situation tests done in Nottingham (Simpson and Stevenson: 1994) and with large companies (Noon 1993) continue to show widespread discrimination in recruitment. The proportion of interviewees claiming discrimination in job recruitment remained substantial (Modood and Berthoud: 131), as did the numbers of ethnic minority members who believed that employers would discriminate on racial grounds.

CONCLUSIONS

Overall, the picture is a complex one. Issues surrounding immigration control and, now, asylum seekers have been a persistent and negative feature of the British race relations situation. Discrimination and disadvantage continue to affect the lives of the ethnic minority population. In employment, education, and housing, progress has been made among certain ethnic minority groups, while others remain severely disadvantaged. Even where there has been progress in job levels and earnings among the ethnic minority population, there are factors which lead the authors of the PSI report to refer to an 'ethnic penalty', which may be due to continuing forms of discrimination. The entry of ethnic minority members into new occupations, paradoxically, opens up new possibilities for discrimination.

The experience of ethnic minority groups has diverged considerably. The success of groups such as the Chinese or the East African

Asian population may be seen to demonstrate a process of integration. However, others have not demonstrated this pattern. Secondly, the success of particular groups may reflect their ability to occupy particular economic niches rather than representing a decline in discrimination within traditional jobs.

Over the past two decades there has been a broader recognition of the way in which discrimination and disadvantage are present in the provision of a range of services, particularly public services. The evidence of the last 24 years suggests that discrimination has proved tenacious, despite the legal powers available to deal with it.

It has also been continuously redefined in public policy terms. Since the early 1980s, a distinct strand of policy focused on racial abuse, harassment, and racial attack has developed. New patterns of discrimination have emerged and been recognised by the CRE, government, local authorities, and private industry. Disadvantage has become more varied in its impact on particular groups. There is no evidence of a linear process that is leading to the elimination of discrimination. It is evident that, around skin colour and ethnicity, new social circumstances can create new forms of discrimination; new forms of racism. In this context the role of the CRE can only be understood through the strategies that have been adopted in addressing this changing context.

2. COMBATING DISCRIMINATION

This section pursues one principal theme: the work of the CRE in its attempt to combat discrimination. We have highlighted work in the areas of employment, housing, and education, because of the importance of these in the development of the CRE's work, and because they are key determinants of individual and group well being. Since its formation the CRE has sought to carry out its duties, in part through legal powers and, in part, through promotion and persuasion. The balance of activities has varied through the life of the CRE. There are, however, three distinct phases of activity or strategic approach that can be identified.

These different strategic approaches can be understood partly as a response to the changing context set out in the last chapter. The changes also represent a shift away from law enforcement as the main tool for achieving the CRE's aims. This section of the report looks at the powers of the CRE and then examines the changing strategies, evaluating these changes against the changing context of race relations. We therefore examine:

- the years 1977 to 1984, when the CRE focused on its law enforcement role, making extensive use of its powers of formal investigation against named individuals and organisations. During this period, the law enforcement powers given to the CRE by the Race Relations Act 1976 were effectively 'road tested'
- the years 1985 to 1993, when, after a series of reversals in the courts, the CRE began to develop a more diverse strategy: more general investigations were conducted, followed up by extensive promotional work.
- the years 1993-1999, when the CRE did very few formal investigations and engaged in much more campaigning and specific promotional work around codes and standards.

1977-1984: TESTING THE LAW

Wide ranging evidence of racial disadvantage was provided by the 1974 PEP study (Smith 1977). It examined racial disadvantage in employment, using the term to refer to inequalities in unemployment rates, occupational levels, and earnings between ethnic minority groups and the ethnic majority. Housing comparisons were made by

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examining structural quality and condition, amenities, density of occupation, and household sharing. It looked also (briefly) at education, qualifications, and language capabilities. Discrimination was researched using situation tests, by qualitative case studies, and by asking interviewees about their experiences and beliefs.

Although its specific remit was the elimination of racial discrimination, in its first full annual report the CRE clearly recognised that fighting discrimination had to be part of a more general strategy to combat overall racial disadvantage, particularly in education. This should have been government led through Urban Aid, the Inner Cities programme and section 11 funding (CRE *Annual Report* 1978:3). The account that follows must be read in terms of the failure of successive governments to deliver such a comprehensive programme

The new power of formal investigation was the primary focus for activity. Although investigation was to be the principal means of law enforcement in individual cases, it was seen from the outset as a strategic device to be concentrated initially on industries in areas of high ethnic minority settlement (CRE *Annual Report* 1978:7). By the end of 1979, twenty employment investigations had started.

By the end of this period, however, the process had stalled, partly because of the resource implications of carrying out dozens of investigations, partly because the power of investigations to alter society radically in the absence of a wider national strategy seemed increasingly questionable, and partly because adverse decisions in the courts had prevented certain key investigations from being carried through (McCrudden *et al* 1991).

Formal investigations

The principal function of formal investigations has been to uncover or discover discrimination. The basic process in named person investigations involves collecting and analysing evidence and proving unlawful discrimination. General investigations work differently, as will be shown below. At its simplest, named person investigations involved, for example, a pub landlady allegedly saying to a black couple, 'I'm not having you in here,' a complaint being made, and statements taken, followed by a determination of unlawful discrimination and a non-discrimination notice (*Antwerp Arms Public House*, CRE 1979). At its most complex it has involved the uncovering by statistical means of direct and indirect discrimination in large housing authorities.

The CRE has discovered discrimination in the following three basic ways.

- The first involves receiving allegations about discriminatory acts or discriminatory outcomes. Typically, the allegations involve the

description of a single alleged act or multiple alleged acts of direct discrimination. When a decision has been made to investigate the allegations, it is followed by interviews with respondents and other potential witnesses, and by examination and analysis of documents and records.

- The second, usually referred to as 'situation testing', starts in the same way but involves using 'testers' (sometimes known as 'mystery shoppers'). People from different ethnic groups apply for jobs or seek services or housing. Applications are made in writing, by telephone or face to face, depending on the circumstances. The common factor is a clear identification of commonly perceived racial difference. Refusals are compared and, if they cannot be attributed to other factors, a determination of unlawful discrimination will follow.
- The third method uses statistical proof of unlawful discrimination and can only be used on large organisations. The CRE has usually relied on it in investigations of large local housing authorities. The method has involved looking at housing allocation procedures involving both ethnic minority and white applicants. If unequal allocative outcomes are discovered, and variables other than racial difference can be statistically excluded, then findings of unlawful discrimination can follow.

Table 2. Start dates of completed CRE investigations which concluded with published reports, 1977 – 1998

	1977 – 1984		1985 – 1992		1993 – 1998	
Type	**Named**	**General**	**Named**	**General**	**Named**	**General**
Employment	14	0	4	3	1	2
Training	0	0	2	1	0	0
Private housing	2	1	3	1	0	0
Social housing	5	1	0	3	0	0
Education	3	0	3	3	1	0
Social services	1	0	0	0	0	0
Leisure	5	0	1	0	0	0
Other services	0	2	0	1	0	0
Sub-totals	31	4	13	12	2	2
Totals	**35**		**25**	**4**		

In employment, the formal investigations during this period were aimed mainly at establishing unlawful direct discrimination and issuing non-discrimination notices. The 14 completed employment investigations took in four large manufacturing companies, one large

financial institution, four large public sector employers, three medium to small companies, and two employment agencies. They concentrated on complaints of racial discrimination in the area of skilled manual work. Half of all the investigations took place in London. A number of other investigations were abandoned for legal reasons, or published as enquiries. These involved either large manufacturers or large public sector employers (McCrudden *et al* 1991:76-77).

The CRE clearly chose predominantly large organisations for strategic impact. Direct discrimination in recruitment or appointment was alleged in nine cases; the locus in most cases was on overtly racist behaviour, either at a departmental or lower level in large companies or by the principals in small companies. Promotion was the issue in three cases. Although the new offence of indirect discrimination was also examined in three cases, it was the sole focus only in one. In large companies the strategic intention seems to have been either to negotiate the introduction of, or an improvement in, systematic equal opportunities policies, or to enforce these policies through a non-discrimination notice.

The Hackney housing allocation investigation (CRE FI 1984), started in 1978, took up a range of the issues raised by Smith's 1974 study. It set a pattern for large-scale local authority housing investigations, which reviewed complex procedures through the scrutiny of housing records and questionnaire surveys and discovered discrimination using statistical techniques

Education investigations differ from those in other areas in that they cannot result in a non-discrimination notice. The CRE must make its findings and recommendations known to the Education Secretary and then wait. There were only three education investigations before 1985. They were similar to the large-scale statistical housing investigations, seeking to uncover and unravel discrimination by education authorities in complex allocative procedures.

The indirect discrimination provisions of the 1976 Race Relations Act moved some exclusions that had previously been explicable as 'racial disadvantage' into the arena of discrimination. The formal investigation into recruitment at the Coventry plant of Massey Ferguson established that existing recruitment practices were indirectly discriminatory. The Ojutiku decision, however, made the task of proving indirect discrimination more difficult, and added to a number of judgements that made the work of the CRE more difficult (McCrudden *et al* 1991, CRE Law Reports).

Even at this early stage the complex legal requirements of the investigatory process were seen to be hampering progress and restricting their effectiveness (CRE *Annual Report* 1978:6). 1981 and 1982, in particular, were problem years for the CRE's employment work. The

judiciary allowed a range of challenges to be made to the conduct of formal investigations. The Prestige Kitchenware Company made the most systematic and far-reaching objections (McCrudden *et al* 1991, CRE Law Reports).

One commentator's conclusion was that the formal investigation had been stripped of its strategic value and had been reduced to, 'little more than a tool of law enforcement' (Munroe 1985:200). A crucial gap was created between the narrowly conceived named person investigation and general investigations. The named person investigation could not focus on an industry or group of local authorities where it suspected widespread discrimination for fear of falling foul of the Prestige decision and general investigations were not backed by the legal power to compel production of information.

The Home Affairs (Race Relations and Immigration Sub-Committee) of the House of Commons reviewed the CRE's work in 1981 and criticised it for the length of time that investigations were taking. The Committee made general comments on the balance between promotional and research work and law enforcement activity. The Committee wanted the CRE to confine itself to the latter, but commented specifically that the CRE's:

> ... record in their exercise of the powers to undertake formal investigations is a very disappointing one ... in general terms these investigations have had minimal effect (House of Commons 1981: xxii-xxiv).

It is not clear on what the Committee based its judgement of minimal effect, but it seems that it believed that a well publicised investigation into a large company would do more than a number of investigations into what were termed 'small fry'.

Formal investigations, however, were never simple acts of law enforcement; but a wider power of strategic investigation was made difficult by the formulation of sections 48 – 52 of the 1976 Act. An investigation and a non-discrimination notice issued in a very narrowly defined area within a large company could allow for much more broadly based equal opportunities recommendations. Inadequate equal opportunities policy and practice, it would be argued, permitted these specific pockets of discrimination. Simple law enforcement – getting an organisation to halt a limited range of practices – was not the issue. Evidence gathering and 'prosecution' was never an end in itself. The investigation was a way into an organisation, an opportunity to 'reform' it.

Complainant aid

In the period 1978-1984, the CRE received an average of just under a thousand applications for complainant aid; about two-thirds of these

related to employment, and just over a third to education, housing, and other services. The composition of employment complaints is important if we are trying to estimate the extent of discrimination. Just over a quarter of these applications concerned recruitment; another quarter promotion within organisations. Half were concerned with redundancy or dismissal. This suggests that the situation tests of the late 1970s and 1980s may have identified only a quarter of potential cases of discrimination.

An average of 120 cases, about a fifth of the applications for aid, were supported by the CRE at employment tribunal. The success rate was low, with only 15% of cases won outright, but this was well above the success rate of people who went before a tribunal without CRE support (McCrudden *et al* 1991:147). Success in employment tribunal cases was very low for individuals and compensation in successful cases was very small. Unlike a formal investigation, tribunal success had no direct implications for the equal opportunities policies and practices of the offending employer.

Promotional work

Between 1977 and 1982, the CRE engaged in a wide range of promotional work with national government, local government, and industry. An initiative was launched to get a race relations clause inserted in all government contracts. Local government was an important focus for effort, because of the special duties assigned by section 71 of the 1976 Act, and because, in 1977, local authorities were still the most important providers of social housing. The CRE also still expected the government to fulfil pledges to lead an integrated strategy targeted on inner city areas (CRE *Annual Report* 1978: 18, CRE *Annual Report* 1980:20).

The approval of the Code of Practice for Employment by parliament in 1983 was a major success for the CRE and launched an important set of strategies. It provided a comprehensive set of guidelines for promoting racial equality in recruitment and within the workplace. It was designed to provide a standard for the primary law enforcement work of formal investigations and complainant support. The code was promoted heavily following its publication in 1984 and involved approaches to major public and private enterprises and trade unions.

1985-1993: PROMOTING EQUAL OPPORTUNITIES

> Too few employers have acted decisively to tackle racial discrimination. Others allow discrimination to happen by failing to identify and rectify systems that have a discriminatory effect (CRE *Annual Report* 1985:11).

The years 1984 – 1986 were transitional for the CRE. The power of formal investigation had effectively been restricted by the courts. In 1985, the CRE produced its first extensive review of the 1976 Race Relations Act, asking, principally, for the law governing investigations to be clarified and strengthened. It asked for direct discrimination provisions to be tightened up, for the scope of tribunal decisions to be widened, and for the ceiling on compensation to be raised. More broadly, the CRE commented on the narrowness of its legal powers: it had no general right to take law enforcement action or to bring class actions; that is, an action on behalf of a group or category of individuals with a common complaint (CRE 1985:82).

The government effectively ignored the review, although it did permit the production of codes of practice for housing. However, by 1987, the CRE was arguing that it had established, through formal investigations, the extent and pattern of discrimination in employment. It was able to 'systematise its advice on how discrimination could best be avoided and equal opportunity promoted' (CRE *Annual Report* 1986: 6).

The CRE produced a second law review in 1992. In this review it re-presented many of the demands for change made in the 1985 review. It also made a claim to be a 'race relations inspectorate' (CRE 1992:45). This was ironic, as the government again largely ignored the recommendations in the report. The Race Relations (Amendment) Act 2000 may bring this state of affairs closer, but in 1992 (and now) the CRE had neither the powers nor the resources to sustain such a claim (Coussey 1992).

Formal investigations

The pattern of formal investigations changed dramatically after 1984. Table 2 (see p 25) shows that general investigations became as important as the named person variety. The CRE was now engaged in large-scale research exercises, either in specific employment sectors or in particular localities or regions. Changes in the age and educational profiles of the ethnic minority population broadened the employment focus to include training, particularly professional training. Education also became much more clearly a priority. Named person investigations existed more as a threat than a reality. McCrudden's view that the non-discrimination notice has fallen out of use following an employment investigation is clearly supported (McCrudden *et al* 1991:279).

It may be argued that the change was due to adverse legal decisions: the CRE decided to scale-down its named person investigations because the process could not be made to work. But, by increasing the number of general investigations, it was scaling up the attempt to

encourage equal opportunities work by promotional means. Although the 1985 review of the 1976 Race Relations Act called for a wide range of changes to the powers of formal investigation, it was recognised that other strategies might work better.

The Beaumont Leys general investigation into employment in the Leicester area, started in 1984, showed that white applicants for retail jobs were four times more likely to be successful than minority applicants. The reason was probably direct discrimination, based either on prejudice or stereotypes. The solution was to encourage equality policies to permeate and informing selection procedures, not to attempt to prove unlawful discrimination. The problem was that the general nature of the investigation gave the CRE no powers to directly intervene in the equality practices of any of the companies investigated.

The CRE's investigation into chartered accountancy training showed that direct discrimination could result from processes that seemed to be fair but in which unexpressed and perhaps unconscious criteria were operating (CRE FI 1987). The investigation also showed also that as the qualifications of people from ethnic minorities improved, as aspirations increased and as they tried to move into a new area of employment, new kinds of discrimination could develop. A more complex view of recruitment discrimination emerged, one not reducible to simple colour prejudice. Equality of opportunity in recruitment needed to involve more than inviting ethnic minority candidates for interview; it involved a complete overhaul of personnel practice and extensive training.

Despite the reduction in the number of named person investigations done during this period, those that were completed, particularly those into local authority housing, were important to define what all agencies now recognise as institutional discrimination. In the case of the Liverpool City Council's housing department, the methodology involved scrutinising local authority nominations to housing associations, using a range of criteria. The investigation determined that white applicants were being nominated to better property than ethnic minority applicants.

The original researchers then had to explain whether this had occurred, 'because of the racial origins of the nominees.' They tested for year of nomination, household size, household need, and other factors and found that these did not explain the differences. The finding of direct discrimination was thus based on the failure of other factors to explain differential nomination on the basis of skin colour.

A situation that seemed to disadvantage ethnic minority applicants for no well-defined reason thus became one that was both discriminatory and unlawful. The problem with this finding was that no specific source of discrimination could be identified. The investigation

could not say if the discriminatory outcomes were the result of the activities of a single racist individual, office culture, or even an interaction of factors which might not be directly observable. The remedy for discrimination in this case was not primarily a penalty but a thoroughgoing revision of procedures and the introduction of systematic monitoring. Each step in the allocation process was to be examined so that a policy or practice that actually or potentially discriminated could be identified and eliminated.

Table 2 (see p 25) shows that there was an investigatory push after 1984 in the area of education. The investigations fell into two categories: first, the large scale statistical kind, similar to housing investigations, seeking to unravel and uncover discrimination by education authorities in the allocation of children to particular schools; second, direct discrimination in selection procedures and discrimination involving a clash between the Race Relations Act 1976 and education legislation (*Racial Segregation in Education (Cleveland)* CRE 1989)

Complainant aid

Between 1985 and 1993, the number of applications for CRE support rose from 1,150 to 1,630; an increase of 30%. The rise could have been due to an increase in discrimination. It is more likely, though, that applications increased because the CRE was becoming better known and there was greater confidence in its ability to help people who felt they had suffered discrimination.

In 1983/84, the CRE restructured its budget. This involved consolidating the finance that both directly and indirectly (through local agencies) assisted and supported complainants. This amount almost doubled as a proportion of CRE spending over the next ten years.

Most applications concerned employment – 64% in 1985. Over the period they increased from 734 to 1,160; a rise of 37%. Other applications included requests for support in housing, education and the provision of a range of other services; for example, during this period the CRE received an average of 70 requests for help in housing matters.

Employment applications showed a relative increase in requests for support in cases of dismissal. Between 1978 and 1984 they had made up an average of 52% of all employment cases. Between 1985 and 1993 the proportion had risen to 60%. Recruitment cases now made up only a fifth of the total, emphasising the point made earlier about assessing discrimination in employment by studying recruitment discrimination.

Direct support in tribunal and county court cases remained selective. Advice and assistance was given in a much wider range of cases. Success rates remained low in cases taken to tribunal, but, d

complainant still had a greater chance of success if supported by the CRE.

Promotional work

Promotional work during the mid 1980s turned in particular to the needs of ethnic minority young people. High youth unemployment produced a focus on educational attainment and training schemes. For example, in 1985 the CRE embarked on work with the careers service, involving advice on training for staff, monitoring of activity, and building links with ethnic minority communities. Extensive work was done, also, in trying to get private sector companies to implement equal opportunities programmes while recruiting under the Youth Training Scheme, a task that was difficult, as the following comment indicates:

> We visited a large computer company where recruitment advertisements proclaimed the firm to be 'an equal opportunities employer,' and found that the employer had not taken any steps to ensure that this declaration was justified (CRE *Annual Report* 1985:18)

Work with the public sector proved to be equally difficult during the same period.

Promotion of the code of practice in employment was an important area of action. The CRE made efforts to get it established as a benchmark for good practice in tribunal cases. Alongside the code itself came supporting material on putting it into practice, including detailed advice on monitoring (CRE *Annual Report* 1985:16).

Five further codes of practice followed between 1989 and 1992:

- *Code of Practice for the Elimination of Racial Discrimination in Education: England and Wales* (CRE 1989)
- *Code of Practice for the Elimination of Racial Discrimination in Education: Scotland* (CRE 1989a)
- *Code of Practice in Rented Housing* (CRE 1991)
- *Code of Practice in Non-Rented (Owner-occupied) Housing* (CRE 1992a)
- *Code of Practice in Primary Health Care Services* (CRE 1992b).

1993 – 2000: CAMPAIGNING FOR (E)QUALITY

A marked change of strategy occurred after 1993. Only four formal investigations were completed in this period. The emphasis moved from law enforcement to the development of quality standards

through which organisations could take internal control of combating discrimination and promoting racial equality. Parallel with this ran a series of campaigns, among them the Leadership Challenge.

Using the Labour Force Survey and writing in 1990, Robinson found that upward economic mobility among ethnic minority group members was more pronounced than Brown (1984) had indicated. But he warned:

> ... despite thirty years residence in Britain, many blacks are still economically vulnerable and many more are still doing the same kind of jobs that they were recruited to do in the 1950s. Some have gained entry into the upper three social classes and apologists may well use this as evidence of the openness of British society to foreigners. Nevertheless, closer analysis indicates that even those blacks who have succeeded in entering white-collar occupations face discrimination and exclusion just as widespread and effective as that experienced by their working-class counterparts. (Robinson 1990)

Formal investigations

The investigation into large companies, conducted in 1995, provided important information about the effects of the CRE's work in the 1980s. The investigation was an important test of CRE strategy because it was ' ... the first comprehensive survey of the commitment of large companies to racial equality.' (*Large Companies and Racial Equality*, CRE 1995:7)

Only 13% of companies had no racial equality policy at all, while 45% claimed to have action programmes. The report comments:

> ...only about half of the companies were making a systematic effort to put [equality policies] into practice. It is also disturbing that nearly a quarter of large companies had no intention of taking any action within the next two years. (CRE FI 1995:10)

When asked why the company had instituted its racial equality policy, the answer given in 88% of responses was that it was 'good personnel practice'; 59% of the respondents referred to the CRE Code of practice in employment; 47% wished to broaden their recruitment pool. ; and only one company referred to the report of a formal investigation as a spur to adopting a racial equality policy (CRE FI 1995:12).

The large companies study, although not well publicised at the time, provided important support for the policy shift that had taken place from 1985 onwards. The CRE had during this period obtained wide ranging evidence of discrimination through general investigations and had promoted the development of equality work within organisations investigated in this way, using the code of practice for employment as its main educative tool.

The conclusions of the large companies investigation report centred

on the gap between 'promise and practice'. The CRE commented:

> If, as most of the large companies in our survey recognised, racial equality is integral to good personnel practice, it is hard to see why there are so few planned programmes of action. (CRE FI 1995:28)

Research conducted by the Cardiff Business School (Noon 1993) gives some insight. Noon used a written situation test (speculative application) from identifiable white and Asian job seekers. Applications were made to the UK's top 100 companies:

> Results from the 1992 study demonstrated that companies with statements about equal opportunities policies were more likely to treat the applicants the same, but in those cases where they did discriminate, they were more likely to do so in favour of the white applicant. (Noon 1993)

The follow-up study done in 1998 indicated improvement in some areas, but also the discouraging finding that companies with an ethnic minority or equal opportunities statement were more likely to discriminate against the Asian applicant than companies without such a statement.

Racial equality policies are apparently simply window dressing for some companies and their behaviour will not change unless they are:

> ... able to show that commitment to their equal opportunities policy [is] a company priority, and that accountability for it [is] vested at the highest level. (CRE *Annual Report* 1994:14)

The work of the CRE has contributed to a view of discrimination against ethnic minority workers as something that is much more complex and difficult to uncover than was generally believed in the early 1970s. For example, Esmail and Everington examined NHS practice to:

> ... assess whether there is any disparity between white and non-white consultants in the receipt of distinction awards. (Esmail and Everington 1998:193).

The award process is avowedly non-discriminatory, but the authors, observing a range of disparities, concluded:

> If discrimination is the explanation, then it can arise at two stages: at nomination and awarding. ... However, the fact of the under-representation of consultants from ethnic minorities, particularly in certain specialities and in certain regions, suggests that something other than sheer excellence is operating at these stages. (Esmail and Everington 1998:194)

Complainant aid

Between 1994 and 1998, applications for support from the CRE again

increased substantially. The average number for these years was over 1,750, compared to 1,400 for the period 1985-1993. Request for support in employment matters constituted over two thirds of all applications (67%). Although the CRE has only been able to support a small proportion of applications, for budgetary and other reasons, it did improve its service during this period. A publication on advice and assistance was produced about the difficulties in bringing a discrimination case (CRE 1994). The CRE also decided to give applicants whose requests were turned down fuller reasons for the decision.

The ceiling was taken off the amount of compensation that could be awarded by an industrial tribunal in 1994. The CRE had campaigned on this subject for a number of years. There have been some substantial awards since then: Don D'Souza, for example, a former employee of Lambeth Council, was awarded £358,229 in 1997 by the Employment Appeal Tribunal (*Equal Opportunities Review* 76:2).

In 1996, the CRE's legal strategy unit produced a digest of all employment tribunal racial discrimination cases. The figures show that applicants were successful in 12% of cases in all tribunals. In the same year, when represented by the CRE, applicants were successful in 24% of cases (CRE *Annual Report* 1995:7). Overall, 29% of cases were settled on terms; in CRE-supported cases the figure was 55%.

Support from the CRE apparently doubled an applicant's chance of a successful outcome. Although this does not necessarily show that the CRE was twice as good as anyone else at employment tribunal work, it does indicate that its legal team were good at choosing which applications to support and following that support through to a conclusion.

Promotional work

The report of the large companies investigation was published at almost the same time as two racial equality standards: one for local authorities and one for business (CRE 1995 and CRE 1995a).

> ... the Standard[s are] a development of the strand of Commission for Racial Equality work that produced the codes of practice for employment and housing. It is a synthesis that tries to carry the code of practice work into the core of large organisations ...It represents the translation of major aspects of 1980s management theory into a framework which, constructs racial equality as an issue of corporate management ... All levels of an organisation are, required to be involved, with a major emphasis on high level leadership and corporate planning. ... Compliance with the law treated as a quality issue. (Clarke and Speeden 2000)

The Leadership Challenge, launched in 1997, developed out of the same kind of thinking.

> [It] invites those in positions of influence, at the very top of companies and

> institutions, to take a lead in promoting racial equality. It focuses on the close link between promoting racial equality (and valuing diversity) and an organisation's effectiveness. (CRE 1999:6)

Several hundred chief executives and their equivalents have signed up to the Leadership Challenge and a wide range of racial equality initiatives have been develop across both the private and public sectors. The intention is to develop:

> National, regional and local initiatives [that] will deliver a nation-wide web of activity designed to make a real difference (CRE 1999:66).

Such an achievement is only a possibility if, for example, business and industry take the CRE's business Standard seriously, and shows that it is been implemented in a way that has been critically scrutinised or audited. In its report on the Challenge, the CRE itself notes:

> Despite the successes reported here, there are clearly areas where a great deal remains to be done, and where greater impact remains to be made. In manufacturing sectors, for example, there is less evidence of measures designed to achieve an inclusive work force. Many international organisations have recognised the importance to their effectiveness and competitiveness of embracing measures to achieve diversity. This understanding is not yet embedded in British industry and it needs to become so. (CRE 1999:66)

The same conclusions can be drawn for local government, where the Local Authority Race Awards, the local authority racial equality standard (CRE 1995) and now the education standard (CRE 2000) are designed to have the same effect.

A sixth code of practice was launched in 1994: the Code of Practice in Maternity Services, signalling an increased focus on the experience of ethnic minority members in their use of NHS provision. Although it contains advice on employment, its principal target is service delivery to ethnic minority communities.

CONCLUSIONS

In this second section we have examined the way in which the CRE has worked towards the elimination of racial discrimination. We have focused on the distribution of key social goods: employment, housing, and educational attainment. The problems in the distribution of these goods were principally defined at the beginning of the period by the 1975 White Paper, the results of the work of the Race Relations Board and the PEP study of 1974. We have argued that the CRE's approach to the problems of discrimination has worked through several different phases.

Changes in strategy were influenced both by a range of factors outside the control of the CRE and by developing thought within the CRE about the best way to tackle discrimination. There is now probably a greater general awareness of racial discrimination as a fundamental problem of social justice than was the case 25 years ago. Members of ethnic minority groups are also represented in a much wider range of jobs, have better educational prospects, and improved housing. The CRE has attempted to combat discrimination in service delivery across a wide range of institutions.

Paradoxically, while disadvantage may have decreased overall, as access has widened, discrimination may have appeared in new forms. The recent decision by the CRE to investigate the Crown Prosecution Service is indicative of this. Evidence of continuing discrimination is apparent in a number of key areas and a number of quite basic problems remain.

- evidence of continued direct and indirect discrimination across employment and service delivery
- high ethnic minority unemployment
- evidence of an 'ethnic penalty' in professional employment
- poor housing conditions for some groups
- low educational attainment and exclusion for some groups.

These should remain priorities for the future.

3. GOOD RACE RELATIONS: CONDITIONS FOR EQUALITY

In parallel with its efforts to combat discrimination and promote racial equality, the CRE has worked to create the more general conditions that would promote equality of opportunity and good race relations. The activities pursued in this area have been diverse and, once again, they relate to the changing British context, together with a shifting debate on race and ethnicity. While it was possible to define distinct periods of change in the strategic response to combating discrimination, the activity to promote equality does not demonstrate such a clear pattern. There are important changes over time, but the main characteristic of this work has been the sheer range of activity.

A clear view of the relationship between strategies for combating discrimination and improving race relations generally should be developed. The phenomenon of racial or ethnic stereotyping, for example, has influenced employment practices and service delivery (Jenkins 1986). Stereotyping is an important component of racial prejudice. Prejudicial attitudes are still held by a large minority of white British people; such attitudes are widely held and expressed by racial attackers and abusers

Racial attacks, abuse and harassment clearly affect the ability of people from ethnic minorities to work effectively and to receive services to which they are entitled. Together with discrimination, harassment is above all what constitutes racism in British society. When government and other organisations tolerate it, when they do not act to stamp it out, the two combine to become institutional racism.

An improvement in race relations must mean at least two things in the current context: first, that the ethnic minority population suffers less racial harassment in all areas of life than is presently the case; second, it must mean changes in attitude – a lower proportion of majority and minority groups should feel prejudice and resentment against each other. In particular, the proportion of ordinary white people who admit to being racially prejudiced should shrink to negligible proportions from its current level of over 20%.

Over the period that we are examining there has been a wide range of activity aimed at promoting good race relations. We look at evidence on harassment, prejudice, inter-ethnic relations, and state activity. We have identified three important themes in CRE work:

- working to combat racial attacks and harassment and reduce white majority racial prejudice.
- supporting ethnic minority groups in their effort to gain better representation for themselves, both locally and nationally; and working to improve social inclusion and to increase confidence and security within ethnic minority communities
- efforts to scrutinise and challenge the negative effects of the workings of state organisations, particularly through promotional work and campaigning.

CHALLENGING RACIAL HARASSMENT AND MAJORITY PREJUDICE

The term 'racial harassment' has come to mean violence or abuse in public places. It has, however, a much wider meaning: it can refer to the activities of children at school, the behaviour of work mates, neighbours, and the police. It can be a look, or even a greeting that is not given. None of these directly deny members of ethnic minorities jobs, houses, or qualifications, but they can make it impossible to stay in a job or a house, or to continue to study.

One of the principal problems facing ethnic minority communities in Britain is continuing racial prejudice among the white community. This prejudice can form the background to violence and harassment and contributes to institutional racism.

Racial harassment

In 1981, the Home Office published a major study on racial attacks. This provided the first national evidence of the scale of the problem for ethnic minority groups. The study found that members of ethnic minorities were, on average, forty times more likely to be the subject of racial victimisation than white people.

The PEP study of 1974 contained no specific reference to racial harassment. The PSI study of 1982 devoted a chapter to racial attacks, but it found little difference between the overall proportions of white and ethnic minority people who had been assaulted in the eighteen months prior to the survey. The study looked at burglary, property damage, and physical assault. Only the assault figures were critically examined by Brown; the results indicated that members of ethnic minorities suffered six or seven times the number of racial attacks as white people. The view of most ethnic minority respondents then was that the situation had got worse in the previous five years. Most migrant interviewees also had little faith in police protection from

racial violence (Brown 1984:260).

The 1980s saw growing concern and awareness of the problems of racial attacks and harassment. The CRE started work during a period when the National Front had significant popular support and was a presence on the streets. These activities and their violent outcomes were recognised as a serious problem and discussed in the first full annual report (CRE *Annual Report* 1978:2). Between 1978 and 1982, the CRE did not treat racial harassment as a separate policy issue: harassment emerged as a policy concern in other specific areas:

- racial abuse in the work place (attempting to establish that persistent name calling was employment discrimination and therefore unlawful)
- racial attacks on housing estates (recognition under housing law that it could be a cause of involuntary homelessness)
- abuse in pubs and refusals of admission to leisure facilities
- harassment under new health service regulations (black and Asian people regularly asked for passports before treatment)
- bad police relations with people from ethnic minorities, particularly young black men
- representations being made about the 'sus' law to the Home Office and Metropolitan and other police forces; evidence was also submitted to the Royal Commission on Criminal Procedure.

The general problem of racial attacks became a specific policy focus in 1983:

> The Commission believes that racial attacks are one of the most disturbing features of multi-racial Britain and doubts whether this issue is being treated with the urgency it demands. Our views about the need to monitor racial attacks have been expressed to the Home Office. (CRE *Annual Report* 1983:29)

The attention of the CRE was centred on attacks on housing estates and the way in which local authorities were dealing with the problem. In 1984, the focus was mainly on the legal measures that local authorities could take: the eviction of perpetrators. In 1985, the emphasis shifted to a broader approach that included victim support, housing staff training, work with tenants' associations, and the beginnings of the multi-agency approach.

A major research study, *Living in Terror*, was published in 1987 and became the basis for future CRE work with local authorities. It was used extensively as a training resource. Further research was done in 1988 and a range of advisory guides was produced. The guides were

followed up with a draft housing code that came into effect in 1991.

Parallel work in education was completed in 1988 and reported in the publication *Learning in Terror*. As with housing, the CRE found that local authorities were slow to respond with effective policy initiatives. By 1991, it was possible for the CRE to state that failure to deal with harassment by a public body could constitute unlawful discrimination. In 1991, the CRE announced a joint project with racial equality councils, intended to: assess the effectiveness of the law; seek legal changes; set up a nation-wide database of attacks and agency responses to them; and evaluate the progress made by local authorities.

The murder of Stephen Lawrence in 1993 and clear evidence from its own and other research (Home Office and British Crime Survey) and renewed activity by the BNP in the East End of London produced a much sharper focus on both racial attacks and other forms of harassment. The CRE began a campaign to create specific offences of racially motivated violence and racial harassment and continued to work with various police forces and other agencies to develop the multi-agency approach to attacks and harassment.

The PSI study of 1994 was more successful than its predecessors in providing a comprehensive view of the situation. In particular, the notion of 'low-level racial harassment' emerged; incidents that did not individually warrant police intervention but which, cumulatively, could be personally destructive and might be the starting point for more serious harassment and violence (Modood and Berthoud 1997:260-264).

Overall, members of ethnic minority groups had, when interviewed in 1994, been only slightly more likely to be physically attacked than white people during the previous twelve months (3%). Only 1% of ethnic minority members said that they had been racially attacked. When asked, however, whether they had been racially abused or insulted, the figure rose to 13%. What the percentages conceal is that, during a year long period, 20,000 members of ethnic minority groups had been physically attacked for racial reasons, and 230,000 had been abused or insulted. Repeated harassment was a feature of the lives of many of those interviewed (Virdee 1995).

At the same time, the CRE produced two important publications, *Tackling Racial Harassment: A caseworkers handbook* (CRE 1995b) and *Action on Racial Harassment: a guide for multi-agency panels* (CRE 1995c). The CRE presented an action plan to the House of Commons Select Committee on Home Affairs to support this activity (CRE *Annual Report* 1983:26) and launched a poster campaign. In 1996, pursuing the theme of crime, a further publication was produced with Neighbourhood Watch, *Tackling Racial Harassment: How Neighbourhood Watch Can Help*.

The Lets Kick Racism out of Football campaign began with concern about racist chanting and abuse at football grounds. Work was done both at national and local levels, by racial equality councils, with the police and with football clubs. The campaign developed in 1993 into a partnership with the Professional Footballers Association. A parallel campaign developed in Scotland. Many football clubs also joined. This campaign gathered momentum during 1994 and 1995, attracting the positive support of all sections of British football. An evaluation of the campaign was commissioned and produced in 1996.

The 1998 Crime and Disorder Act introduced new offences of racially aggravated harassment and added racial motivation to the factors that could be taken into account for sentencing. The CRE worked to strengthen the Bill and got an amendment on racially aggravated criminal damage included.

Racial prejudice

An important element in most studies on racial prejudice has been self-assessment. Part of the classic study done by Rose and his associates in the late 1960s suggested that British people were relatively unprejudiced. Only 10% of white people said that they were prejudiced, while a further 17% percent said that that they were 'prejudice-inclined' (Rose *et al* 1969:ch.28).

All general self-rating prejudice studies, however, are subject to the same critical objections that Lawrence made to the Rose study. First, he pointed out that 27% of the population expressing some racial prejudice was not necessarily something by which to be encouraged. Second, and more important, he argued that general prejudice studies provide little useful information either for academics or policy makers. It is the study of specific attitudes in specific situations that yields useful material (Lawrence 1974: 67-68).

Since 1983, the British Social Attitudes (BSA) survey has been asking questions on racial prejudice and connected issues. In 1996, the Institute for Public Policy Research (IPPR) did similar work (Alibhai-Brown 1999). The CRE did its own survey on stereotyping and prejudice in 1998 (CRE 1998).

In general terms, in the period 1984 to 1998, these surveys have shown that white British people believe that they are still a racially prejudiced population. About 30% of those interviewed rate themselves as a little or as very prejudiced (7% in the latter category); almost two-thirds of those interviewed believe that members of ethnic minority groups are discriminated against in employment. The 1994 PSI study found self-rated prejudice among the white population to be in the 20% (against African Caribbean people) to 25% range (against south Asian people). Chinese people were the exception; less

than 10% of white people said they felt prejudice against them (Modood and Berthoud 1997). This is consistent with the BSA surveys.

In addition to self-rating, the BSA surveys have, since 1984, examined four areas concerned with racial prejudice: majority and minority belief about whether British people are racially prejudiced or not; majority and minority belief about the existence of racial discrimination in Britain; support for, or opposition to, anti-discrimination law; and support for, or opposition to, strict immigration control law.

Two-thirds of BSA respondents have regularly supported the existence of a 'race law' (anti-discrimination legislation). The 1991 survey indicated a slight rise in support for anti-discrimination legislation , although it must be noted that the same report showed equal support for continued strict restriction of non-white immigration (BSA 1993:187). It was found, also, that white people have become less opposed to having an ethnic minority boss since 1983.

The findings of the BSA studies on attitudes to immigration control, race relations law, and having an ethnic minority boss all tell us more about the likely response of white people in particular situations than do general prejudice assessments. It is difficult to tell whether these surveys indicate that British society is more accepting and less prejudiced. Nor do the surveys help us to predict the prevalence of discrimination, say, in employment, or the likelihood of certain kinds of racial harassment.

The IPPR work shows very much the same range of attitudes as the BSA surveys, but it asked a much wider range of specific questions. Two-thirds of respondents, for example, thought that the Race Relations Act 1976 was a good idea, although a substantial proportion thought that it was weak and not properly enforced (Alibhai-Brown 1999 34-35). In contrast, the BSA survey found that nearly a fifth of white respondents 'resent the law because it gives ethnic minorities special treatment' (Alibhai-Brown 1999:41). This finding suggests that race relations law may be counterproductive because it has been misunderstood or wilfully misinterpreted.

The qualitative work done as part of the IPPR study provided the most interesting results, summed up as follows:

> [There is an] internal contradiction between a hatred of personal racism and having racial prejudices, or in believing in the fairness of this country and yet accepting that it is unfair, [which] remain unresolved (Alibhai-Brown 1999:37).

The CRE's own study, conducted in 1998, revealed that all groups were optimistic about improvement in race relations over the succeeding five years, and that two-thirds thought that race relations had improved over the past twenty years. All groups believed that racial discrimination was a problem, with the workplace being identified as

its most important site (CRE 1998:16-18).

However, qualitative studies found resentments among white respondents similar to those found in the IPPR work; there was a belief among some white people that equal opportunities policy privileged members of ethnic minority groups, who then refused to integrate into the British way of life. There was also a belief in preferential access to council housing for ethnic minorities. Multicultural education was also a focus for resentment; Muslims came in for particular criticism (CRE 1998:20-21).

Between 1978 and 1993, the CRE concentrated on discrimination law enforcement and companion promotional work with specific bodies in clearly defined policy areas. The CRE has always maintained an active information and publicity department. Between 1978 and 1984, close relationships were fostered with the media. They dealt with dozens of press inquiries a week (an average of 78 a week in 1980, for example), held numerous press briefings, and issued a stream of press releases. Monitoring the contents of the press on a day by day basis was also an important activity.

Advertising and poster campaigns were tried. The CRE produced a range of one-off specialist and periodical publications. The tabloid format *New Equals* had a circulation of well over 100,000 in 1979, with education and employment journals both having circulations of over 20,000.

In 1984, more effort was put into relationships with national and local journalists. Meetings were held all over the country and a training course for ethnic minority journalists was sponsored. The CRE pursued complaints about press coverage of ethnic minority issues, particularly in the area of immigration, throughout the 1980s and used contacts with the media to try to get more consistent and positive coverage of the issues.

The recognition of prejudice as a continuing feature of society has been behind recent campaigns. We have already mentioned Lets Kick Racism Out of Football. Since 1993, there has been a series of high profile, national, poster advertising campaigns, one of which brought down the wrath the advertising watchdog. The *Roots of the Future* exhibition combined a historical perspective with an educational approach. An evaluation of its impact in south west England found very encouraging results among school students (Dhalech 1999).

SUPPORTING REPRESENTATION AND INCLUSION

From its inception the CRE has provided support and advice for ethnic minority organisations. They have received support directly from

the CRE and through racial equality councils (RECs). Support for RECs has been an important component of the CRE's work. It has had to deal with the twin challenges of providing financial support within a tight accounting framework and not interfering in the independent activities of supported groups. The late 1970s were a time when national and local government support for voluntary organisations was being cut sharply.

Promoting good race relations has been substantially redefined over the CRE's lifetime. In the early 1970s, 'good race relations' referred primarily to black-brown/ white relations. This view has been overlaid with a notion of 'ethnic diversity,' which, as we argued earlier, suggests specific needs and interests, and an organised or institutional presence.

Supporting representation

The CRE had regular contact with ethnic minority organisations about matters of both national and local concern. In the 1980s, there was a strong focus around the 1981 Nationality Act and its consequences for ethnic minority groups, numerous changes in immigration law, and the immigration rules. Policing was a major focus (see below), with attention paid to the 1984 Police and Criminal Evidence Act.

In 1983 and 1984 there was major emphasis on ethnic minority youth unemployment and conferences for ethnic minority youth workers and ethnic minority young people were supported. In particular, the contributions of ethnic minorities to the cultural and artistic life of Britain were emphasised in the CRE's promotional work.

Table 3. Financial support for external bodies

Years	CRCS/RECS	% total	Other ext aid	% of total budget	Average annual % increase in CRE budget
	£		£		
1978-1984	2,179,365	30.89	725,229	10	11
1984-1993	3,529,742	30.03	1,156,879	11	6
1993-1998	4,042,406	26.31	433,906	3	0

The CRE took over the roles of the Race Relations Board and the Community Relations Commission. Under section 44 of the 1976 Race Relations Act, the only formal role given to the CRE in relation to community relations councils/racial equality councils was that of providing financial assistance. Relations between the CRE and the councils have always been complex from the outset and have reflected

the tension between a national funding organisation and local voluntary bodies.

Table 3 shows how support funding for CRCs/RECs and voluntary organisations changed over the years. External support took over 40% of the CRE budget right up to the early 1990s, but dropped to less than 30% as the overall CRE budget shrank, both in cash and real terms. Financial support for complainant aid organisations increased dramatically in the mid-1980s, indicating a shift to more targeted support.

The following quotation summarises these developments:

> The 1968 Race Relations Act replaced the NCCI with two new statutory bodies: the Race Relations Board and the Community Relations Commission. The latter body was charged with encouraging directly and through others the establishment of harmonious community relations and the national co-ordination of measures adopted to promote that objective by others. Voluntary Liaison Committees changed their names to Community Relations Councils (CRCs) and were funded by the Commission to promote harmonious community relations
>
> There was however no clear definition of what 'harmonious community relations' meant and, by the middle of the 1970s, conditions had begun to change significantly. The model of an organisation ostensibly committed to creating harmony and goodwill between people of different races sat uneasily with the increasing recognition of the type of discrimination suffered by a number of people from various ethnic minority communities. (CRE/KPMG 1997:14)

A review conducted by the Policy Studies Institute in 1986 resulted in the 1988 report *Community Relations Councils: Roles and Objectives*. It recommended that:

> CRCs should be reconstituted as racial equality councils. This change of name would better reflect the purpose of local racial equality work, which, like that of the Commission nationally, had come to focus more upon combating discrimination and promoting equality of opportunity than of promoting harmony in community relations. (CRE/KPMG 1997:15)

The review, conducted by KPMG in 1997, recommended that the CRE widen the scope of its funding to other local agencies; a difficult task, given budget constraints. Suggestions were also made about sharpening the focus of the work of RECs, setting national core standards for their work, and providing specialist legal assistance at a regional rather than local level (CRE/KPMG 1997).

Diversity and inclusion

The language of race relations has undergone a major change in the last twenty years with 'ethnicity' replacing 'race' in the description of minority groups. The change involves a major shift in emphasis, placing issues of cultural and religious difference at the centre of the debate on racial equality. This has made the CRE's task a complicated

one, because the issue is no longer simply one of building equality within 'mainstream' (white) institutions. Complex issues are raised when trying to build equality based on difference and diversity.

The balance between diversity and equality has become a matter of growing debate. Brown's 1982 study about integration and identity dealt with this problem by assuming, on the one hand, 'public integration', alongside 'private diversity' on the other. In the conclusion to the 1994 PSI study, Modood contrasts two conceptions of equality:

- the right to assimilate to the majority/dominant culture in the public sphere, and toleration of 'difference' in the private sphere
- the right to have one's difference recognised and supported in both public and private spheres.

For Modood, the crucial difference between the two is that the second:

> ... adds the right to widen and adapt the national culture and the public symbols of national membership to include the relevant minority ethnicities (Modood and Berthoud 1997: 358)

Modood acknowledges that making sense of this position in national policy terms is difficult and the CRE's attempts to 'recognise diversity' in the Roots of the Future campaign makes an important plea for mutual acceptance, but does not solve the policy issues.

The growing emphasis on ethnicity is rooted in the developing attitudes of ethnic minorities. When asked by the 1982 PSI interviewers about participation in majority dominated public institutions, and about social and residential segregation, ethnic minority respondents overwhelmingly approved participation and rejected separation. When asked about maintaining distinctive culture and language, a large majority were in favour. Less than half, however, disapproved of adapting to 'white ways' Brown (1984:282-283).

The 1994 PSI study did much more elaborate research in this area, reflecting particularly on identity differences between Asians and African Caribbeans. A specific Islamic identity was shown to exist among Pakistani and Bangladeshi respondents (with almost double the level of formal religious observance as other groups) (Modood and Berthoud 1997:303).

Asians scored much more highly on a series of separate identity indices than African Caribbean people: religion, use of a language other than English, views on 'mixed' marriage and religious schooling. One of the most striking findings of the survey was that a majority of ethnic minority respondents found no contradiction between identifying themselves as British and identifying themselves as members of an ethnic minority group.

Ethnic minority group respondents, particularly African

Caribbeans, in the 1998 CRE study, argued that they were the victims of negative stereotyping. Although they were as optimistic as white people about change for the better, many had experience of racial abuse and attack. African Caribbean people, in particular, felt that they were discriminated against in employment, education, and at the hands of the police (CRE 1998:16-20).

The concept of diversity poses some difficult questions at the level of personal relationships: inter-group relationships, friendships, partnerships and marriages. For example, the 1982 PSI study recorded the incidence of 'mixed marriage' among its respondents at 6%. This was more common among African Caribbean people, as well as being more common in areas of low ethnic minority concentration (Brown 1984:33).

The 1994 PSI study found that in two parent Caribbean households 39% of children had one white parent. In similar Asian households the figure averaged 2%. Although not directly comparable with the 1982 study, the figures indicate a rising degree of intermarriage between African Caribbean people and white people and some indication of a similar trend among the Chinese minority. A simple Caribbean Asian divide cannot be assumed. One fifth of married Indian and African Asian men who were born in Britain had a white wife. Intermarriage, however, between minority groups was very rare (Modood and Berthoud 1997:31-57).

Ethnic minority views of 'mixed marriage' varied. Asians felt that their communities were more opposed to inter-ethnic relationships than African Caribbean people. Personal views were more positive. Even among Pakistanis, who most strongly feel that their community is opposed, over 40% of individual respondents said that they would not mind if a close relative married a white person.

White attitudes to 'mixed marriage' varied, too. More than half of white respondents said that they thought that most white people would mind if a close relative were to marry into an ethnic minority community. Almost three-quarters of all white respondents, however, said that they themselves would not mind if a close relative married into an ethnic minority community. The findings of the IPPR study two years later were similar (Alibhai-Brown 1999:33).

The most controversial policy issue in this area for almost twenty years has been trans-racial adoption. The CRE has contributed to this debate with the co-publication with the British Agencies for Adoption and Fostering of *Acting on Principle*, which examines race and ethnicity in social services provision for children and families.

One of the clearest instances of discrimination in Britain has been housing allocation, where a distinct spatial separation between ethnic minority communities and the majority white community has been

produced. CRE housing investigations have not only discovered racial discrimination in the allocation of a basic resource; they have revealed also basic presumptions about community relations. Walsall Metropolitan Borough Council defended a discriminatory housing allocations policy on the basis that it was trying to alleviate vandalism problems (*Walsall Metropolitan Borough Council*, CRE 1985). The main concern for investigations has been one of equal access and anti-discrimination, but diversity poses a challenge to some of these assumptions.

The public policy task of tying diversity to inclusion and equality is a difficult one. The CRE has focused on equality of opportunity and equal access, but the growing demand for separate provision for ethnic minorities, based on religious and cultural difference, poses problems in ensuring that equality of opportunity is maintained.

SCRUTINISING STATE ACTIVITY

The CRE was given a specific duty to review the 1976 Race Relations Act. We have already shown that it has fulfilled this function on three separate occasions. Only now, in the wake of the Stephen Lawrence inquiry will any (but not all) of its recommendations be incorporated into revised legislation (the Race Relations (Amendment) Act 2000). Its powers to scrutinise other areas of law and the activity of various state bodies has been extremely limited.

Two areas central to good race relations are beyond its remit: Immigration and nationality law and the criminal justice system. The CRE has been able to examine the employment record of the police service, for example, but has had no power to intervene in the way policing has been carried out. The same has been true for the rest of the criminal justice system

Immigration control and good race relations

The history of immigration control since 1962 (when it became thoroughly racialised) was sketched in the context section. Most commentators see the politics of immigration control over the past thirty-five years as having had a key negative effect on good race relations. The expressed aim of the mid 1960s legislation was to control immigration to prevent a white reaction, to lower racial tension, and to ease social problems such as housing shortages (Clarke 1992). Race relations provision was added almost as an afterthought to stop discrimination and aid integration.

Immigration legislation and the rules governing entry to Britain have been in a state of almost continuous change since the mid

1960s. Almost all the changes have carried the message that migrants, unless well off or from the white Commonwealth, would cause problems in Britain and were undesirable. Race relations legislation was slow in developing and has never had equivalent political weight behind it.

If we look back at the words of the first Race Relations Board report, which described law as 'An unequivocal declaration of public policy' (Race Relations Board 1967: para 65), the politics of immigration control and the resulting law have declared migrants and their descendants to be unwanted. This has not been matched by an equally strong positive message from the race relations legislation.

The CRE investigation into immigration control is the only formal investigation conducted into the operation of central government policy (*Immigration Controls and Procedures*, CRE 1985). Suffice it to say that any racial equality body worth its salt would have had to investigate British immigration policy and practice at some stage in its first ten years of existence

The CRE was initially obstructed by the Home Office, which argued that the CRE was exceeding its powers. The High Court decided that the CRE was entitled to carry out an investigation in relation to its duty to promote equality of opportunity and good race relations, but not with regard to its duty to work towards the elimination of racial discrimination. Broad terms of reference were drawn up to inquire into the arrangements made for the enforcement of the Immigration Act 1971 (CRE FI 1985).

The decision to investigate was provoked by the scandal arising out of the 'virginity test' outrage at Heathrow airport. The Home Secretary announced an inquiry, but the CRE felt that this was insufficient and concluded that there was, 'an urgent need for a review of the administration of immigration control generally' (CRE FI 1985).

The CRE collected evidence from the public and received representations from a wide range of bodies. Overseas procedures were examined both through oral and written evidence and through examination of the procedures in use. Procedures at ports of entry were examined, as were post-entry controls. The appeals system was examined in detail though observation and statistical and legal analysis. Staff selection and training was examined

The report remains the longest published by the CRE. Most of the findings relate to the refusal of admission to people entitled by law to enter and settle in the UK. It is not concerned with the justness of the law (such considerations were beyond the legal remit of the CRE), but the fairness of its administration. It found that the way the law had been administered was more concerned with the detection and prevention of evasion than with the rights of genuine applicants for

entry. Overall, the CRE criticised the administration of the Immigration Act 1971 for failing to balance control and detection of evasion against the rights of those with genuine claims to entry and the injustice caused by this lack of balance.

The CRE has continued to produce critical commentary on both the content and administration of immigration and asylum and nationality law. Most annual reports have contained sections on efforts made in relation to the administration of immigration law. But immigration policy and practice remains an area where the CRE can have little influence.

Monitoring policing and criminal justice

The 1976 Race Relations Act did not apply to the delivery of a police service (this has been changed by the RRRA 2000). Police services were subject to the law as employers, but not in carrying out their law enforcement and public order functions. One of the major features of the period has been poor relations between the police and ethnic minority groups; either because the police were paying too much attention to them (stop and search of young black men) or too little (racial attacks, the Stephen Lawrence case).

The major urban disturbances of 1980, 1981, and 1985 were directly related to the way in which black communities were policed. The Scarman Report made critical comments about the policing of ethnic minority communities, but stopped short of calling police practice racist (Scarman 1981). Sir William Macpherson took a different view in the Stephen Lawrence Inquiry Report and produced the now famous definition of institutional racism (Macpherson 1999).

The CRE has emphasised the positive connection between fair employment and good service delivery in the policing. Good employment practice is not simply a question of employing more people from ethnic minorities, but of making the police service a career of choice for ethnic minority individuals because all aspects of employment within it are fair. (CRE *Annual Report* 1998:9)

The CRE has contributed through campaigning, debate, and publications to other areas, including sentencing patterns (CRE *Annual Report* 1993:5), prison conditions, the probation service, victim support, and input into proposed changes in the law, such as the Crime and Disorder Act of 1998.

CONCLUSIONS

In this section we have outlined the main areas in which the CRE has worked to fulfil the second part of its remit: to promote good race

relations generally. The CRE has ranged over a wide variety of activities, with its support for RECs and other organisations, its publications and publicity work, and its high profile campaigning being central features of this work. It has not always been clear:

- how this work related to the more specific anti-discrimination effort
- whether the impact of the work was subject to sufficient critical evaluation.

For example, the relationship to RECs was subject to both internal and external critical review, both in the 1980s and the 1990s. The extensive poster campaigns of the 1990s and the impact of the Roots of the Future exhibition, however, seem to have been insufficiently evaluated.

Although the work associated with the promotion of racial equality has developed separately from the anti-discrimination policies, there appears to have been some convergence in these activities. This convergence is encouraged by the growing debate on diversity, which poses difficult questions about the relationship between anti-discrimination and racial equality. A stronger strategic understanding of the relationship between these two elements of the CRE's role will be necessary to ensure compatibility between the goals of supporting diversity and achieving social equality.

Despite considerable progress in some areas of race relations, there are a number of quite basic problems that remain unresolved:

- undiminished levels of racial abuse and racial attacks
- continuing survey evidence of racially prejudiced attitudes
- lack of inclusion/continuing feelings of insecurity among ethnic minorities
- continuing negative influence of immigration and asylum policies
- continued negative impact of police service operations.

These should all remain priorities for the future.

4. A NEW REGULATORY FRAMEWORK

The history of the CRE set out in this report shows how the CRE's policies have reflected and responded to changing circumstances. In particular, we have identified the way in which law enforcement dominated the first phase of CRE work, and how this was superseded by a phase in which campaigning and the introduction of a set of voluntary codes and standards became predominant. With the introduction of the Race Relations (Amendment) Act (2000), and in the climate created by the Stephen Lawrence inquiry, a new regulatory framework for policy and action is about to put into place. Below, we assess this new framework and its implications for future development.

The new Act makes important changes to the CRE's remit, for the first time in twenty-five years, and provides a clear statutory framework for positive racial equality schemes in the public sector, which have hitherto been either vague or explicitly voluntary. The Act is the result of a number of pressures on government.

- the courage and persistence of the Lawrence family and their supporters in seeking a judicial inquiry into the death of Stephen Lawrence, and the positive public support for their case
- Sir William Macpherson's report of the Stephen Lawrence inquiry, which identified systematic failure in police practice in London, and evidence of institutional racism
- the long-term work of the CRE, particularly its three reviews of the 1976 Act
- the willingness of a new Home Secretary to revise legislation and to try to initiate change in public services.

PRESSURES ON GOVERNMENT

The Stephen Lawrence Inquiry Report made the following recommendation:

> That the full force of the race relations legislation should apply to all police officers, and that chief officers of police should be made vicariously liable for the acts and omissions of their officers relevant to that legislation. (Macpherson 1999, 47.11)

Its findings extended more generally into public sector service delivery, where it argues that institutional racism is:

> The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people. (Macpherson 1999, 6.34)

The Home Secretary's action plan, consequent on the Lawrence Inquiry Report, was published in March 1999. The plan follows very closely the recommendations of the Macpherson report. The principal aim of the recommendations was to increase ethnic minority confidence in the police. This aim was to be supported by the following action:

- change in the definition and recording of racist incidents
- increased reporting of racist incidents
- improved family liaison with crime victims
- improved prosecution rates for perpetrators of racist crime
- improved recruitment and retention of minority ethnic recruits to the police
- development of community and race relations strategies
- ensuring an appropriate ethnic mix in police authorities
- a duty on schools to prevent and address racism.

The wide-ranging action proposed by the Home Secretary clearly highlighted the need for a new statutory framework to give it form and force. It also gave weight to the arguments submitted by the CRE in its third review of the Race Relations Act. This had been submitted to the Home Secretary in March 1998 and its principal focus was discrimination by public bodies, both in employment and service delivery, and the introduction of a public service duty to initiate and maintain good racial equality practice:

> The Act should state clearly that people have the right not to be discriminated against on racial grounds by any public body, and that it is unlawful for any public body to discriminate against anyone on racial grounds. This would complement the other positive rights that will form part of UK law when the Human Rights Bill is enacted. It would also remove a major limitation of the 1976 Act and provide important protection in areas such as policing or the treatment of prisoners where discrimination can cause the greatest damage to race relations (CRE 1999a:1 Lords briefing document)

Public bodies would be compelled to:

- consider the implications for racial equality of all their policies or actions
- include equality terms in their external contracts and funding agreements
- monitor both employment and service delivery, by ethnic group
- report annually on how they have fulfilled their racial equality duties

(CRE 1998b)

The CRE argued that any public body failing to comply with its racial equality duties should be subject to judicial review. The CRE should be given the power to bring proceedings to secure compliance (CRE1998a).

The Bill as originally published was restricted to the duties of public service organisations, but did include police operations. Initially indirect discrimination was excluded. This omission was widely challenged and indirect discrimination was inserted into the final legislation. Initially the Bill was vague about the nature of public service statutory duties, but in April 2000 an amendment was tabled to establish a framework for statutory positive duties.

THE RACE RELATIONS (AMENDMENT) ACT 2000

The RR(A)A, which came into force on 2 April 2001, extends discrimination law to cover all the activities of all public authorities, including police operations, the prison service and a limited range of immigration service functions. There remain some exceptions to the law, such as: parliament, judicial proceedings, security services, and some immigration and nationality functions.

The 1976 Race Relations Act created a general duty, under section 71, for local authorities to have 'due regard to not discriminate, to promote equal opportunity and promote good race relations.' Although this may have stimulated some local authorities to put racial equality policy and practice into place, it has made no general impression. The RR(A)A amends section 71 of the 1976 Act, giving more definite general and specific duties to local authorities to combat discrimination. The Act also enables the Home Secretary to revise the list of specific duties as necessary. This may make the Act more flexible, but future Home Secretaries could use this power to reduce the influence of the legislation and undermine its impact.

IMPLEMENTING THE ACT

The CRE will have the task of setting out the details of, and enforcing, compliance with specific duties (section 71D). This responsibility will

inevitably place the law enforcement role high on the CRE's agenda.

The RR(A)A strengthens the existing legislation through its definition of specific duties; it also creates a new enforcement role for the CRE as part of a new regulatory process. Under the new legislation many organisations will have an obligation to develop race equality schemes, and to work to codes of practice and standards that set out acceptable equality practice. Organisations will be required to produce policies and plans for implementation which will be subject to statutory scrutiny by the CRE or, more likely, through another inspection process. If the inspection and scrutiny process reveals failure to comply, enforcement action will ensue.

The new process differs from the enforcement regime employed under the Act between 1977 – 1984, when enforcement depended on complaints. The CRE was drawn into enforcement through a complaint, allowing investigation and 'prosecution' under the Act. This system produced considerable legal activity through discrimination cases at industrial tribunal but, as we have argued, it was 'hit and miss' in its approach and was incapable of providing a general enforcement framework.

The RR(A)A leaves the CRE's existing powers in place, while introducing the new regulations as a set of additional powers. In practice, although the system for complaint, investigation, and 'prosecution' is available, the new system promises more effective enforcement through the inspection of more clearly defined duties. The realisation of this promise will depend on the 'mainstreaming' of racial equality within a range of regulatory and scrutiny regimes, for example those of OFSTED and the Audit Commission.

The new approach is consistent with the CRE's attempts during the 1990s to place greater emphasis on quality management and self-assessment as mechanisms for delivering racial equality. The enforcement regime established under RR(A)A reinforces this approach, which sees racial equality mainstreamed within 'good management'.

The new approach has the strength of being linked to a range of broader regulatory and inspection regimes or frameworks and its success will depend on the continuing development of the 'regulatory state' and the capacity of these regimes to maintain effective scrutiny and identify failure to comply. The benefits of the new structures are that a wide range of agencies have become responsible for the enforcement of the Act and these are supported by the powers available to the CRE. Enforcement through prosecution will be an important back-up power, but, in addition, enforcement can draw on the authority of the inspectorates and a range of scrutiny powers.

A NEW REGULATORY FRAMEWORK

Ten years ago Mary Coussey, then working for the CRE, argued for a new regulatory framework, outlining the conditions necessary for establishing such a framework. These conditions can be summarised as:

- standards to be set by law
- a vigorous enforcement programme
- objective measures of success/failure
- employers and service providers to benefit from compliance
- sufficient and organised public concern.

(Coussey 1992:46-47)

The RR(A)A has gone a considerable way in establishing this framework. Four of the conditions have been substantially met. New statutory duties and, in particular, race equality schemes set legal standards. Monitoring systems and performance indicators have been developed which, if systematically applied, will show whether standards are being met or not. Public sector employers and service providers are familiar with the quality management arguments that support the CRE's codes and standards and seem to understand the benefits. The Stephen Lawrence inquiry has raised public concern over institutional racism. The remaining item to be put in place is a 'vigorous enforcement programme.'

The new approach to law enforcement will need to combine the quality management approaches to positive racial equality practice with a robust compliance regime. Corrective law enforcement will only make sense as part of a more comprehensive and integrated approach to the problems. The new powers will require a completely different approach to law enforcement from that used between 1977 – 1984. The development of codes and standards and the adoption of a quality model for racial equality rely on the development of self-critical institutional development and ownership of new developments like race equality schemes. They indicate to organisations how positive good practice can avoid negative outcomes both for the organisation and for ethnic minority groups.

The RR(A)A gives the CRE new direct and indirect legal powers. The new legislation tells public bodies that they have a general duty to avoid discrimination and promote racial equality, or both a general duty and specific duties that should be laid out in a race equality scheme. Advice on schemes will be provided through new statutory codes of practice.

What the CRE appears to have been given is the power to enforce the hitherto voluntary positive measures (or some part of them) that it has been recommending to public and private organisations in its voluntary codes and standards since 1995. The local government standard now has indirect legal status as the basis of a Best Value performance indicator.

Some steps have already been taken in this direction and the emerging relationship between the CRE's new roles can be seen in the following diagram taken from the Home Office consultation document (Home Office 2001:10):

CIVIL LEGISLATIVE ACTION	ACTIVITY	ENFORCEMENT
Outlawing race discrimination	**Race discrimination outlawed** in all public functions: • in respect of employment, the provision of goods, facilities and services, training, education, housing and certain other activities, including public appointments made by ministers and government departments under the 1976 Act; • in all other public functions under provisions inserted by the 2000 Act, with limited, justifiable exemptions.	**Claims** to an employment tribunal, the county/sheriff court, the immigration appellate authorities or High Court, as provided for in the Act. Remedies apply. Assistance can be provided to claimants by the CRE. **Informal action** by the CRE. **Formal investigations** by the CRE and the service of non-discrimination notices.
Promoting race equality	A **general duty** on specified public bodies to work towards the elimination of unlawful discrimination and promote equality of opportunity and good relations between persons of different racial groups.	**Informal action by the CRE** in the light of complaints received from individuals or using their own general powers.
	Specific duties on specified public bodies to ensure their "better performance" of the general duty.	**Formal enforcement action by the CRE** in respect of specific duties, using compliance notices backed up by court orders if necessary. No financial remedies apply.
ADMINISTRATIVE ACTION		
Guidance	**CRE statutory Codes of Practice**, providing guidance to public authorities on how to fulfil their obligations under the general & specific duties, e.g. covering policy development & implementation, service delivery, employment & performance management. **CRE statutory Codes of Practice** on employment and housing. **CRE non-statutory guidance**, e.g. race equality standards for local authorities & schools.	**Statutory Codes of Practice admissible as evidence** in respect of an alleged breach of the Act.
Performance indicators	**Performance indicators**, where appropriate, linked to progress against CRE statutory Codes of Practice or other guidance. Also performance indicators linked to Central Government Public Service Agreements & Service Delivery Agreements.	
Audit and reporting	**Monitoring and public reporting** by public bodies, the Audit Commission in local authorities, National Audit Office, Audit Scotland, the police, fire & probation inspectorates, etc.	
Measuring progress	**A basket of race equality indicators** measuring progress on race equality in the public sector – published in Race Equality in Public Services.	

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The diagram shows two separate forms of action: civil legislative action and administrative action. The challenge facing the CRE will be to develop its enforcement role in a way that effectively supports the administrative action. This will require filling in the present gaps in the table – for example, how will legal measures be used to enforce a system based on regulation and correction.

In developing these new measures, the CRE is likely to encounter tensions within its enforcement role. These tensions are likely to arise because the new powers under the RR(A)A which emphasise law enforcement as a positive corrective within a regulatory system have not replaced the previous 'negative' enforcement role based on 'punishment of offenders'. Instead, both sets of powers are available. The CRE will have to consider seriously how it will use these powers strategically. The temptation to move into a new and vigorous period of action based on complaint and the punishment of offenders may undermine the regulatory compliance and culture change implied by the positive duty.

5. CONCLUSIONS AND EVALUATION

Since it was created the CRE has explored and tested a wide range of racial equality policies. The value of the CRE's work, in this regard, has been continuity in the development of policy and its implementation. Over its life, the organisation has adapted to the range of changing circumstances described in the body of the report. Without the CRE, it is unlikely that there would have been the continuous development of race relations policy and practice upon which any general assessment of progress in Britain could be made.

While government policy, finance and the changing social and economic structure have had an influence on the CRE's strategy, the original legislative framework locked the organisation into a pattern of development which separated the work on 'anti-discrimination' from the work on 'good race relations'. It has been an achievement, therefore, that the gradual convergence of policies within these two strands of work now demonstrates very clearly their inter-relationship and shows the need for a more integrated strategy. This view is supported by a number of conclusions drawn from the report.

- **The CRE has played a significant role in developing an understanding of the persistence of racial discrimination and the continuing need for racial equality work.**

  The 1975 White Paper recognised that the view of racial discrimination contained in the Race Relations Acts of 1965 and 1968 was narrow and inadequate. Its authors, however, could not have realised how complex and intractable racial discrimination would turn out to be. Although the Stephen Lawrence Inquiry Report moved forward the debate on institutional racism and public bodies, the CRE's formal investigation work provided the basic understanding of this complex problem.

  The published formal investigations carried out by the CRE together form the single most important body of information about racial discrimination in Britain. They show how and where it has occurred, and how difficult it can be to uncover. The CRE has both documented and publicised (not always successfully, because formal investigation reports do not make good headlines) the multiplicity of ways in which discrimination occurs and, together with tribunal decisions, has established what constitutes

racial discrimination. The importance of discovering or proving unlawful discrimination in a wide variety of circumstances should not be underestimated. The CRE has been, and still is, in a unique position to be able to show how discrimination works, and to be able to declare it unlawful.

A range of practices which in the mid 1970s would have widely been regarded as acceptable are now considered to be unjust and illegal. Clearly this is not the same as eliminating discrimination, but it does provide part of the foundation on which well worked out and implementable racial equality/equal opportunities policies can be built. One of the features of both the later named person investigations and the general investigations is the amount of thought that the CRE has given to detailed institutional reform.

Indirect discrimination is poorly understood, except by specialists. The failure to make it work legally suggests that the CRE should refocus on compliance with its standards for local government, business, and education. It should attempt to get these standards incorporated into regulated good practice requirements where the penalties attach to a well-understood failure to develop good race equality practice.

- **The CRE has succeeded in developing a clear understanding, both through its anti-discrimination work and its three reviews of the Race Relations Act 1976, of the importance, and the limits, of a law enforcement approach to racial equality.**

  In arguing for legislation the Race Relations Board recognised its symbolic role: the legislation itself declared the importance of improving race relations. It passes a national message that certain kinds of action are unacceptable, but experience suggests that the law does not by itself sustain this message. Many individuals and organisations do not hear the message, do not act on it, or do not think it applies to them. Selective law enforcement has provided a better understanding of discrimination, but on its own it has been ineffective as a way of developing anti-discrimination and racial equality practice.

  The capacity of legal instruments to influence and make change depends on the political and social context in which they are used and the law on its own is a limited tool. The limits of the law have been explored by a number of authors. Hepple, for example, has argued that, contrary to evidence and experience, a view has persisted that the law can act on society from 'outside' and change it.

He argues that too much was expected of the Race Relations Act 1976 and pointed to a new regulatory framework, which would attack the problem from different angles (Hepple 1992:32).

- **The CRE has developed multiple strategies to build racial equality that go beyond law enforcement. The most important examples have been the attempt to use codes of practice and standards, to provide advice and promotion on equal opportunity policy and monitoring and to persuade organisations to take ownership of the process of producing racial equality**.

  Sections two and three of the report show that the CRE has developed a range of tools to pursue its remit. The elimination of racial harassment has been a key component in the CRE's overall strategy of trying to influence the more general conditions in which discrimination could be eliminated and the CRE has modified and developed its approach to combating discrimination, to develop a multi-stranded approach. It has also, through negotiation, persuasion, and campaigns backed by research and publications, worked in a wide range of areas that are not concerned directly with unlawful discrimination.

  Formal investigations, which were the main legal tool up to 1984, turned out not to have the power of change that was anticipated. Far too much was expected of them. Although claims have been made in various annual reports that their use is now strategic, it has not clearly been spelled out how they form part of an overall strategy

  The development of the employment code and those for housing, education, and health care, and the development of standards for local authorities, business, and education have been central to a multi-strategy approach. The key problem is that none of these has had statutory backing. They are not well integrated with powers of formal investigation or complainant support. Work done to get the local authority standard incorporated into the present government's modernisation strategy for local government gives it a quasi-statutory status. But the outcomes from this remain uncertain. The RR(A)A 2000 gives the CRE the power to issue statutory codes and to apply for judicial reviews of bodies that are not complying. However,, there is no guarantee that the use of judicial review will, by itself, prove to be a more powerful force for change than formal investigations and non-discrimination notices.

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- **Although the CRE has developed a range of strategies over its lifetime, it has fallen short in developing a comprehensive and integrated set of strategies that build on this experience.**

  First, we would point to the relationship between attempts to enforce the law through investigations and tribunal support and promoting 'institutional ownership' of the development and implementation of racial equality practice through codes and standards.

  The second key area for concern is the development of a strategic view of the many other different activities that have been an important and legitimate part of CRE activity. Support for racial equality councils takes time and almost a third of the CRE's budget. The work of RECs has been subject to major CRE reviews on at least two occasions and they now operate within much stricter management guidelines. However, because they are independent bodies catering for local needs, their participation in nationally coordinated strategy has been variable.

  Since 1995/6, the CRE annual report has contained a section called 'Raising Public Awareness.' This has reported on a considerable number of different activities, all of them potentially important and worthwhile. What seems to be lacking is an evaluation of the impact of this activity and, more particularly, how these activities are coordinated with mainstream activities such as law enforcement.

  The conclusions demonstrate the strength of the CRE as a body that has responded to the changing context of race relations within Britain, developing policies and expanding the range of tools that may be used to combat discrimination and develop racial equality. The work of the CRE has demonstrated the limits of the 1976 Act, but also, more generally, the limits of the law as a sole instrument in delivering 'good race relations'. However, they also point to a weakness in the evaluation of policies and in the development of a comprehensive strategy, which builds on their experience.

  Through three historical periods the CRE has developed markedly different strategies. The strong emphasis on law enforcement through the 1980s gave way to new strategies based on persuasion and promotion. The strategies of persuasion exemplified by the codes of practice and the racial equality standard can play a central role in future policy, but they need to be backed up by legal measures. Promotion of equality and diversity have an important role to play, but ideas about anti-discrimination need to be linked

more closely to the notion of racial equality. The CRE provided a wealth of experience in these areas. What is needed is a clear strategic focus, which can build this experience into a comprehensive strategy. This strategic focus must address the question of diversity and, through this approach, build a clearer relationship between the anti-discrimination role and the role of building 'good race relations'.

Building a comprehensive strategy should be seen as an important task for the CRE and, while this task is beyond the remit of this report, a number of points should be addressed:

The RR(A)A has provided statutory backing for quality management approaches to racial equality, but it is uncertain whether the government will provide more resources for development and enforcement. The CRE will have to think very hard about a new enforcement regime, reflecting both on the resource implications and the results of legal tests in the early 1980s.

The CRE is likely to have to opt for a much more modest strategy and will have to pay close attention to the most effective way to use its resources. Above all, it is going to have to rely on the voluntary adoption and assessment of racial equality measures and to rely on a range of other inspectorates to monitor good practice, particularly in the public sector. The recently published study of OFSTED shows that much work remains to be done with specific inspectorates, to make them effective in tackling discrimination and promoting racial equality (Osler and Morrison 2000). Regulating the private sector is currently beyond the CRE for both resource and legal reasons. A wide, voluntary, self assessed uptake of the business standard (or its successor) would be a major achievement.

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